

PROPOSED AGENDA

COUNCIL MEETING

March 8, 2011

7:00 PM

CALL TO ORDER – Mayor Sammy Phillips

PLEDGE OF ALLEGIANCE

INVOCATION

ADOPTION OF AGENDA AND CONSENT ITEMS

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PUBLIC COMMENT

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PUBLIC COMMENT

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City Council

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COUNCIL MINUTES

SPECIAL MEETING GOAL SETTING

February 15, 2011

The Jacksonville City Council conducted a Council Goal Setting Session on Tuesday, February 15, 2011 beginning at 3:00 PM. The meeting was held in the Jacksonville Youth Center, 804 New Bridge Street. Present were: Mayor Sammy Phillips, presiding; Mayor Pro-Tem Michael Lazzara, and Council Members: Jerry A. Bittner, Fannie Coleman, Randy Thomas Bob Warden, and Jerome Willingham. Also present were: Marianne Herring, Coastal Carolina Community College, who was the facilitator for the session; and City staff: Richard Woodruff, City Manager; Ronald Massey, Assistant City Manager, Adah Roberts, Finance Director; Glenn Hargett, Communications and Community Affairs Director; Mike Yaniero, Police Chief; Rick McIntyre, Fire Chief; Grant Sparks, Public Services Director; Reggie Goodson, Planning and Development Services Director; Carmen Miracle, City Clerk; and John Carter, City Attorney.

ADOPTION OF AGENDA

A motion as made by Mayor Pro-Tem Lazzara, seconded by Councilman Thomas, and unanimously approved to adopt the agenda as presented.

GOAL SETTING SESSION – EXHIBIT A & B

The Facilitation Summary (Exhibit A) provided by Ms. Herring describing and listing the discussion and outcomes of the Goal Setting Session is provided herein. Mr. Woodruff indicated that the issues and suggestions provided by Council during this portion of the meeting would be formatted into Goals and Tasks that he would provide to Council for review and future approval. The DRAFT formatted Goals and Tasks as described by Mr. Woodruff is herein attached as Exhibit B. These exhibits constitute the minutes of this portion of the meeting.

FINANCIAL PROJECTIONS AND FORECAST FOR THE COMING YEAR

Using a spreadsheet, herein attached as Exhibit C, Adah Roberts, Finance Director, provided a review of the current financial situation to date as well as reviewed financial projections for the coming year. Discussions included a brief review of revenue projections as well as CIP fund commitments and CIP fund availability for the coming year.

A lengthy discussion was held regarding residential and commercial garbage collection policies. Mr. Woodruff pointed out that the current policy was to support residential garbage

collection utilizing the General Fund, rather than through fees. In terms of budget preparation, the budget would be built using this same philosophy unless Council directed staff to work on a different option, such as instituting a service fee with a corresponding reduction in the tax rate. He did point out that the cost to support solid waste services was expected to continue to rise; therefore, staff would be looking at more efficient ways to provide the service. Options for increased efficiency would be brought to Council for discussion in the future.

In conclusion, Mayor and Council thanked Ms. Herring for her assistance. Ms. Herring indicated she would provide detailed notes from the meeting to City staff and Mr. Woodruff said he would format Goals and Tasks from the discussion for Council review.

ADJOURNMENT

A motion was made by Councilman Warden, seconded by Councilman Bittner, and unanimously approved to adjourn the meeting at 8:04 PM.

Exhibit "A"

Jacksonville City Council Beach Party – Goal Setting Session February 15, 2011

- Welcome
- Introduction
- Session Objective: Identification of Important Issues and Concerns (as basis for budget and tasks for staff during next fiscal year)

Goal Setting Session Basic Format

Part 1: Review Current Goals

Part 2: Identify Specific Tasks, Objectives, Programs for year

Part 3: Financial Projections

Part 4: Prioritization (of specific tasks, objectives, programs)

Prior to review of FY11 Goals, the Council reviewed the Mission and Vision statements. The following represents suggested changes for consideration.

Review of Mission

Suggested change to the mission statement:

To provide the leadership, vision, and oversight necessary to ensure the responsible stewardship of Jacksonville's ~~environment and natural~~ resources for the effective, economical, and efficient delivery of municipal services, and for the proper planning for today and for the future.

Review of Vision

Suggested change to the vision statement:

A Jacksonville whose abundant natural resources, healthy environment, military presence, and vibrant economy make it the best place to live, work, play, and visit.

Part I: Review Current Goals

Council reviewed the FY 11 Goals. The following represents suggested changes and additions to those goals for FY12.

Suggested Goal/Need: *Be an innovative government that embraces technology to accomplish service delivery.*

- Increase technical services and business transactions
- This could include online permitting transactions, bill paying, police reports, etc.
- Electronic tracking of permit status, copies of reports, etc.
- This has the potential to increase customer service relationships, while facilitating the delivery of services to the citizens of the city.

Goal 5: Maximize Sales Tax Revenue for the City

- ***No longer viable goal***
- Changes at state level
- Closing of state deficit gap

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- Major sources of revenue may be in danger of loss
- Need to look at other sources of revenue, such as fee-based services

Modify:

Goal 6: Continue to Build and Maintain Key Relationships

Additional Goal Proposal: Ensure safety and welfare of all citizens

Be proactive in providing/protecting the safety and welfare of the community.

- Engaging the community to help policy itself
- Create an environment to reduce crime
- Proactive strategies
- Opportunity to evaluate locations of fire departments

Add Quality of Life to Goal 3

Assess and Respond to the Needs and quality of life of the Community

Proposed Goal: Clean and Green

Make Jacksonville the most clean and green city in the state.

Part 2: Identify Specific Tasks, Objectives, Programs for year

Council members were asked to identify specific tasks, objectives, and programs that they would like for the staff to work on during the next fiscal year. No attempt was made to work in order of the established goals or identify priority (at this stage). The following represents concepts and ideas shared and posted during session:

1. Continue to develop regulations for developments on major corridors.
 - Implement Hwy 24 study: setbacks, landscaping, storm water ponds, green space standards.
 - Continue setting standards of how we want corridor(s) to look
2. More parks and recreation throughout Jacksonville
3. To enhance customer-service/enhance facilitation of delivery of services, use "dragon slayer" program
 - One person to facilitate getting a person, business or organization through a process
 - This will help to reduce confusion in the process
4. Continue to enhance Clean and Green program
 - Utilize inmate labor; people have been noticing this use of resource
 - Partners to help fund project
 - Concept plans (horticulture plan) for segments of Western Blvd
 - Public-Private partnership

Downtown Development

5. Increase ability to park downtown (to get more businesses interested)
 - Perhaps private organization to handle parking (such as development of parking deck)
 - County may consider relocating offices; provides opportunity for downtown area
 - Downtown “free parking” is no longer a perk for most cities (ex. Wilmington)
6. Model needed for downtown development
 - City/public participation
 - Street realignment
 - Identification of strategic public parking
 - Access to public safety, courthouse
 - (Parking: staff currently gathering information on available spaces and utilization)
 - Plan needed
 - “Way finding” Signage needed
7. Downtown: be proactive and make best use of space.
 - Localization of centralized area for storm water runoff- this will help maximize utilization of available space (Look at Wilmington’s downtown system)
 - Use More sand filters, rather than open ponds
8. Money for people to borrow for projects, like a revolving loan fund (this existed in 2005, up to \$250,000)
 - State grants/loan possibly available if the project creates jobs
9. Review downtown code: make more development-friendly
 - Does it help or impede housing, businesses?
 - Products and technology change (such as the type of windows that should be used, etc.)
10. CDBG funds reduced, but not eliminated.
 - BOLD: revisit their role, objective/existence
 - BOLD No longer funded by the county. May need BOLD representative to help review UDO
 - (Task for staff: review role of BOLD)
11. Connectivity of Trails
 - Need city assistance (Bell Fork/Hwy 24)
 - CIP includes some design
 - Working with base to accommodate
 - Project is in design
12. Enhancing funds for resurfacing roads

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- Getting behind in the timely resurfacing- need to discuss amount and utilize effective procedures
- Task: determine techniques to do more timely paving
- Example: do not have paving contractor “on call”
 - May award amount of (smaller) paving contract, so this amount is already “pre-approved” to do the work based on established specifications
 - May aware through quantity: competitive pricing through pre-approval process for contractors (compete for tasks)

13. UDO – Eventual completion date?

- Module 2 will be presented next week
- Module 3 to study committee in one week
- UDO (sent out in early management report)

14. Approval process: projects over 25,000 sq ft require council approval

- May consider increasing the size limit that needs council approval; this would help streamline the process
- (A forthcoming report will share results of City Council approval process, timeliness, etc.)
- Planning Commission now acts as Development Review Board. What role do they need to play?

15. Appointment Vacancies

- Attrition, participation
- Look at boards, determine needs, potential merging, etc.
- Task: Identify tasks/potential combining of Boards
- Example: Combine Trails – Greenways with Recreation & Parks
- Study commission to determine needs and tasks

16. Country Club Park

- Property owned by the city, but need to create the park

17. Fire Department Locations

- How to efficiently respond
- Example: Medical emergencies make up the majority of fire calls with the large truck. Is this the best use of resources?
- Need to consider what is efficient and effective

18. City Cemetery

- Is chain link fence needed? Perhaps wrought iron?
- The area is becoming more of a focal point. Consider looking at alternatives for improvement

19. Increase technology services to improve online bill paying and doing business with various departments.

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- Example: 16,000 water bills; 8,000 – 10,000 are now paid online (big cost savings to reduce billing)
- Technology allows ability to do business with the city off-site
- Consider partnership with banks for customer bill payment
- However, billing has “value” as use for communications and public relations
- Use technology to bill and collect where possible
- Permits-applications or review of process through technology
- Using 21st Century Technology to do business may help to reduce the negative thoughts of difficulties in doing business with the city
- Electronic submission of plans/blueprints (pay fee to the city for copies, rather than drafting firms-when submitting plans)

20. EFFECTIVE, EFFICIENT, ECONOMICAL

- Considerations for all areas of city operations

21. Explore Potential of combining services city/county

- Enter into discussion with county
- Are there benefits to consider unification of some services, such as Planning/Zoning/Building/Permitting
- Customer service: There exists the perception that it is easier to deal with the county, and the county is “more favorable to development”
- Need to let public know City is working under the same guidelines (as county)
- Look for ways to partner with ONWASA
- Implement Piney Green Project
- Caution in merging city/county services

22. Annexation

- Work on annexation legislation
- Continue to work on voluntary annexation
- Involuntary annexation?
- Educate public on annexation through water bills (current annexation tasks underway)

23. Maximize use of property (portion of land application site not being used for spray application)

- Recreation opportunity or other public use?
- Canola test plot (biofuels), intensive forest management?
- CLNC biomass burning project

24. Future landfills

25. Fire Station Study

- Building Station #2 this year

26. Re-examine the county strategic plan

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- Pull together agencies for the master plan, such as hospital, community college, schools
- Transition system for park-ride system for college
- May help alleviate parking problem
- Need discussion with College

27. Resurfacing Bell Fork Homes basketball court

28. Police

- Explore the increase in use of technology
- Approximately 8% of current reports are filed online; “e-crash” module
- AED (Auto electronic defibrillator) device in all cars
- Priority calls: fire truck dispatched, then JPD
- 68% of fire calls are health related emergencies
- Increase in number of traffic citations tends to decrease number of crashes
- JPD targets areas with high number of crashes (and complaints) to give out citations
- Desire to focus on neighborhoods

29. Sanitation

- One-armed mechanized system implemented
- Consider increased use of system (after evaluation of system’s effectiveness; report forthcoming)
- EFFECTIVE, EFFICIENT, ECONOMICAL

30. Streets

- CIP will include estimated values/costs
- Water/sewer replacement impacts resurfacing progress
- Cleaner streets-sweeping
- No DOT funding

31. Water and Sewer

- Discussion on future expansion
- Need to consider next phase: what, where, plan of options, study, etc.
- Grand Opening of Water Plant- set for April
- Continue to explore opportunities for joint projects and work with ONWASA

32. Human Resources

- Insurance?
- Turnover less than 12%

33. Planning & Zoning

- Personnel will be cross trained in electrical, framing, plumbing
- Will hold Level 3 Inspector (will work to complete if do not have certification upon hiring)

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- Building Permits- Citizens need to follow steps, particularly pre-planning, preparation requirements
- The process is “easy” when they follow the rules
- Need to educate the public that there is a process
- Need to change the image that the City is hard to work with (in building process)
- Perceived attitude, lack of assistance within the department

34. Look at Codes

- Example: handicap ramp not allowed because it violates setback limit in a single family home- there should be efforts made to help find a solution, not automatically deny because of code requirements
- Investigate possible solutions

35. Fire Department

- Finish Fire Station #1
- Fire Safety Advisory Board: limited use; ad hoc board?
- Look at location of Public Safety Building
- Emergency situation responses
- Fire Plan (locations)

36. Parks and Recreation

- Exercise or remote control location at land application site (similar to activity on Riggs Road)
- May join Sports Commission on this activity
- Jack Amyette Center: need to finish
- Some funds have been budgeted
- Outside facility- need to develop master plan (staff will prepare)
- Philosophy: plan to fix existing facilities to first class status before adding new ones.

Part 3: Financial Projections

Financial information was provided to the Council Members by Finance Director.

Part 4: Prioritization (of specific tasks, objectives, programs)

Due to lack of time, this portion could not be completed during the planning session.

Facilitator:

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DRAFT
City of Jacksonville
Council Goal Setting Session Overview
February 15, 2011

The City Council conducted a Goal Setting session on Tuesday, February 15, 2011. The results of that Goal Setting session included the following:

Proposed Mission Statement

To provide the leadership, vision and oversight to ensure the responsible stewardship of Jacksonville's resources for the effective, efficient, and economical delivery of municipal services for today and for the future.

Vision

Option 1 - Jacksonville's natural resources make it the best place in which to live, work, play and visit.

Option 2 – Jacksonville, whose abundant natural resources, healthy environment, military presence, and vibrant economy, make it the best place to live, work, play, and visit.

Goals for FY 2011

- Goal 1** Develop strategies to improve the quality of life, sustainability of the community, and the environmental quality of Jacksonville
- Goal 2** Develop strategies to implement downtown redevelopment
- Goal 3** Assess and properly respond to the needs and quality of life of the community
- Goal 4** Ensure infrastructure which is adequate to meet current needs and plan for infrastructure for the future growth of the community
- Goal 5** Maintain current key relationships with the Onslow County Commission, the military community, ONWASA, and others, and build additional key relationships which will produce a quality Jacksonville community
- Goal 6** Maintain a quality, dedicated and effective workforce
- Goal 7** Be proactive in protecting the safety and welfare of all citizens of the Jacksonville community
- Goal 8** Be an innovative government, embrace technology and identify new approaches to serve our citizens and to accomplish outstanding service delivery

Goal 9 Utilizing Clean and Green Jacksonville, make Jacksonville the cleanest community on the east coast of North Carolina

Goal 10 Utilize effective, efficient, and economically sound strategies to deliver professional services utilizing the resources of our community

New Tasks for FY 12

General Operations

1. Problem Solving – Be more proactive in problem solving
2. Branding - Create a branding/wayfinding program for the community
3. Strategic Plan - Create a countywide Strategic Plan
4. Boards & Commissions – Look at all City Boards to determine their mission and needs, and potentially merging to streamline their efficiency.
5. Study all areas of city operations to implement effectiveness, efficiency, and economy

Clerk/Attorney/Community Programs

1. City Committees - Study all committees to determine their current missions, effectiveness, the need for continuing with those committees, and determine a proper role for the future.
2. Annexation Legislation - Work against the annexation legislation currently proposed in the State Legislature.
3. Voluntary Annexations - Work on voluntary annexations
4. Annexation Brochure - Create a document to be included in a mailer which shows the benefits of annexation and what annexation has meant to cities in North Carolina
5. G10 -- continue to expand the use of G10

Transit

1. Parking - Work with the Coastal Carolina Community College on parking/create transit parking areas

Development Services

1. Major Corridors - Develop standards and regulations for private development on our major corridors
2. Dragon Slayer Program - Utilize the Dragon Slayer Program to assist and encourage development in Jacksonville
3. Customer Service Improvement - Review the current process for issuing permits and continue to improve customer service in the development sector of City government

4. Development Review approval process - Prepare a workshop which will review the 25,000 square-foot rule which requires developments of that size to be approved by the City Council
5. Review and finalize UDO Modules 2 & 3.
6. Technology Uses - Analyze technology as an approach for identifying ways of improving the Building Department and others involved in the permitting process, reduce the flow of paper and improve the efficiency of the system
7. Building Inspection Consolidation - Study combining City and County building inspections
8. Building Department -- implement technology

Downtown Development

1. Parking - Conduct a parking study and make recommendations for implementing new parking in the downtown area. Include public-private partnership opportunities
2. County Government Input - Engage the County Government in downtown planning and redevelopment
3. Physical Model - Develop a physical model which will show the future development of the Downtown area.
4. Storm Water System - Create a centralized storm water system for the downtown area
5. Cultural and Civic activities - Have more focus on the downtown and proceed with activities which can lead to redevelopment
6. Wilmington's Storm Water Management - Study the approach Wilmington has taken for downtown storm water management
7. Revolving Loan Program - Try to establish funding for a revolving loan program to assist and encourage businesses to locate in the downtown area
8. Downtown Code - Review and recommend changes to the downtown code
9. B.O.L.D.'s Role - Review the current function of B.O.L.D. and determine an appropriate role for B.O.L.D. to play in the future relative to the downtown

Recreation

1. Recreational Opportunities - Create more parks and recreational opportunities throughout Jacksonville
2. Clean & Green Landscaping - Utilize a public-private partnership for installing clean and green landscape improvements on Western Boulevard and other areas of the community
3. New Park - Work to create a park on Country Club Road on City-owned property
4. City Cemetery – Develop concepts which will determine alternatives to the current chain-link fence around the cemetery
5. Wooten Park - Resurface/replace the basketball court at Wooten Park
6. Recreation Activities - Consider utilizing the lagoons at the land treatment site for remote-control aircraft and other recreation activities

7. Study the Land Application Site to determine potential uses for recreational purposes.
8. Trails Program - Create connectivity within the trails program

Public Services

Streets

1. Funding - Enhance funding for resurfacing of roads in the City
2. Paving - Determined techniques for more timely paving of the road system and utilization of Powell Bill Funds
3. Cleaning - Continue to improve the cleanliness of the main streets including street sweeping, mowing, litter control and edging

Sanitation

1. Innovation - Continue identify and implement innovation and mechanization/automation including yard waste collection techniques
2. Yard Waste Collection Alternative - Prepare a study for the City Council which shows yard waste collection alternatives

Water/Wastewater

1. ONWASA - Look for ways to partner with ONWASA
2. Piney Green Sewer - Implement the Piney Green sewer project
3. LAS Management - Implement the land treatment site management plan as recommended by the expert panel
4. Recreation Opportunities LAS - Look at options for use of the land at the land treatment site for recreation purposes
5. Alternate Energy Source - Consider "fuel the force" opportunities at the land treatment site. Study biomass as an option for generating electricity at the land treatment site
6. Forestry Management – Implement the forestry management plan for the LAS and consider intensive forestry management at the site
7. Wastewater Master Plan - Prepare a workshop which provides an overview of the current wastewater master plan and explain current planning for the future
8. Wastewater treatment capacity expansion - Identify options for expanding our treatment capacity
9. Water Plant Tour - Establish a tour for the Mayor and Council of the new water plant
10. Water Plant Open house - Conduct an open house in April of 2011 of the new water plant

Stormwater

1. Storm water – Improve the image of the storm water staff including customer service training

Finance

1. Water billing - Study techniques and technologies which will improve the number of customers utilizing electronic or other payment options rather than the conventional bill
2. Payment of utility bills/Drive up Window - Prepare a report relative to the number of customers which utilize the drive up window. Include data on all current methods of payment and the number of customers using each method.

Fire

1. Medical Emergencies - Analyze the City's/communities' current approach of responding to medical emergencies, identify alternatives, and report to Council with recommendations for changes in the delivery of this service
2. Build Fire Station 2
3. Build the Center for Public Safety

Police

1. Technology - Implement the E-crash computer program and continue to improve technology for citizens to gain access to various police records
2. Reducing Speed in neighborhoods - More focused attention in the neighborhoods for reducing speeding

Human Resources

1. Workers Comp Claims -- Provide information relative to workers compensation claims and the impact on such claims due to the automated garbage collection system
2. Turn Over Rate - Prepare information relative to turn over rate for all City Departments

ITS

1. Expand Technology - Continue to explore new ways to expand technology in every facet of City government experience

GENERAL FUND	FY2009	FY2010	FY2011	FYE	FY2012 Projected	FY2013 Projected	FY2014 Projected	FY2015 Projected	FY2016 Projected
REVENUES									
Ad valorem taxes	17,099,462	17,726,734	18,466,606		19,011,000	19,572,000	20,150,000	20,746,000	21,358,000
Other taxes and licenses	11,629,312	11,566,197	13,488,987		13,748,000	14,012,000	14,282,000	14,557,000	14,837,000
Unrestricted Intergovernmental	3,324,395	3,234,249	3,510,900		3,522,000	3,534,000	3,546,000	3,559,000	3,572,000
Restricted Intergovernmental	2,310,840	2,132,920	2,088,901		2,072,000	2,081,000	2,090,000	2,099,000	2,108,000
Permits & Fees	880,573	1,450,667	1,310,000		1,317,000	1,323,000	1,330,000	1,336,000	1,343,000
Charges for services	529,362	587,603	654,234		583,000	594,000	604,000	616,000	627,000
Miscellaneous Revenues	2,694,791	2,518,103	2,137,573		871,000	873,000	874,000	876,000	877,000
Total GF Revenues	38,468,736	39,216,473	41,657,201		41,124,000	41,989,000	42,876,000	43,789,000	44,722,000
EXPENDITURES									
Salaries and benefits	19,580,088	19,835,418	21,220,633		21,421,060	21,636,948	21,854,932	22,075,034	22,297,275
Operating expense	3,580,504	3,687,481	5,221,840		5,266,147	5,310,925	5,356,151	5,401,830	5,447,966
Other departmental expense	4,799,085	5,596,586	6,472,750		6,538,581	6,597,026	6,656,062	6,715,694	6,775,928
Capital Outlay	993,800	989,630	1,192,237		1,092,057	1,092,312	1,209,553	973,815	943,259
Other financing uses	6,446,529	5,083,484	4,893,352		34,318,000	34,637,000	35,077,000	35,167,000	35,464,000
Operating Costs	35,400,006	35,192,599	39,000,812		3,582,140	3,343,212	3,207,545	3,049,618	2,901,365
Debt service	2,331,608	2,388,389	2,031,217		1,092,057	1,092,312	1,209,553	973,815	943,259
Total General Fund Expend	37,731,614	37,580,988	41,032,029		37,900,140	37,980,212	38,284,545	38,216,618	38,365,365
Trf to Capital Reserve					1,392,560	1,444,262	1,506,193	1,566,441	1,629,098
Gen Fund Excess/ (Deficit)	737,122	1,635,485	625,172		1,831,300	2,564,526	3,085,262	4,005,941	4,727,537
Trf to Solid Waste					2,162,335	2,380,836	2,310,451	2,314,133	2,319,967
Available for Funding			625,172		(331,035)	183,690	774,811	1,691,808	2,407,570
GENERAL FUND FUND BALANCE	15,991,669	17,660,175	18,285,347		17,954,312	18,138,002	18,912,813	20,604,621	23,012,191
Uncommitted CIP Debt Service (Net of Cap Reserve)					1,703,111	2,491,592	2,452,251	3,263,736	3,021,079

WATER SEWER FUND	FY2009	FY2010	FY2011	FYE	FY2012 Projected	FY2013 Projected	FY2014 Projected	FY2015 Projected	FY2016 Projected
REVENUES									
Water Fees	6,883,197	9,050,718	9,082,996		9,161,000	9,240,000	8,133,000	9,401,000	9,482,000
Sewer Fees	9,831,783	14,819,264	14,447,392		14,724,000	14,848,000	14,972,000	15,098,000	15,225,000
Trf from W/S Cap Projects	3,231,487	301,376	799,642						
All other revenues	5,577,259	3,909,706	2,724,948		1,736,000	1,736,000	2,926,000	1,740,000	1,743,000
Total W/S Revenues	25,523,726	28,081,064	27,054,978		25,621,000	25,824,000	26,031,000	26,239,000	26,450,000
EXPENDITURES									
W/S Operating Expenses	21,495,256	24,924,762	17,364,360		17,656,000	17,835,000	18,018,000	18,204,000	18,393,000
Debt Service			6,770,015		10,920,398	10,835,517	10,824,536	10,531,799	8,215,602
Water/Sewer Fund Excess/(Deficit)	4,028,470	3,156,302	2,920,603		(2,955,398)	(2,846,517)	(2,811,536)	(2,496,799)	(158,602)
UNRESTRICTED W/S FUND BALANCE	(11,629,041)	20,322,976	23,243,579		20,288,181	17,441,664	14,630,128	12,133,330	11,974,727

SOLID WASTE FUND		FY2009	FY2010	FY2011	FYE	FY2012 Projected	FY2013 Projected	FY2014 Projected	FY2015 Projected	FY2016 Projected
REVENUES										
Commercial fees		1,887,304	1,905,484	1,971,640		2,011,000	2,051,000	2,092,000	2,134,000	2,176,000
Residential fees		662,509	671,194	705,040		712,000	719,000	726,000	734,000	741,000
From general fund		2,917,828	2,004,406	629,015		-	-	-	-	-
All other revenues		518,706	173,960	143,652		144,000	145,000	146,000	146,000	148,000
Total Solid Waste Fund Revenues		5,986,347	4,755,044	3,449,347		2,867,000	2,915,000	2,964,000	3,014,000	3,065,000
EXPENDITURES										
Salaries and benefits		1,500,519	1,557,892	1,624,811		1,642,000	1,660,000	1,678,000	1,696,000	1,714,000
Operating expense		507,392	512,543	596,638		602,000	608,000	614,000	620,000	627,000
Other departmental expense		2,512,067	2,599,138	2,802,569		2,830,000	2,858,000	2,886,000	2,915,000	2,944,000
Capital Outlay		363,886	246,509							
Debt service		33,469	26,624	333,895		286,921	169,836	96,451	97,133	99,967
Other financing uses		(160,270)	46,618	-		-	-	-	-	-
Total Solid Waste Fund Expenses		4,757,063	4,989,324	5,357,913		5,360,921	5,295,836	5,274,451	5,328,133	5,384,967
Solid Waste Excess/(Deficit)		1,229,284	(234,280)	(1,908,566)		(2,493,921)	(2,380,836)	(2,310,451)	(2,314,133)	(2,319,967)
Transfer from GF req to keep min FB of 100000						2,162,335	2,380,836	2,310,451	2,314,133	2,319,967
UNREST. SOLID WASTE FUND BALANCE		2,516,140	2,340,152	431,586		100,000	100,000	100,000	100,000	100,000
STORMWATER FUND										
REVENUES										
Commercial fees		1,356,822	1,402,386	1,430,611		1,445,000	1,474,000	1,503,000	1,533,000	1,564,000
Residential fees		671,528	652,870	652,870		659,000	669,000	679,000	690,000	700,000
All other revenues		190,815	62,816	55,887		51,000	48,000	50,000	53,000	55,000
Total Stormwater Revenues		2,219,164	2,118,072	2,139,368		2,155,000	2,191,000	2,232,000	2,276,000	2,319,000
EXPENDITURES										
Water Quality		415,879	377,326	493,979		499,000	504,000	509,000	514,000	519,000
Drainage Maintenance		959,913	1,019,506	1,136,379		993,000	998,000	1,004,000	1,009,000	1,015,000
Debt service		613	741	392,172		677,322	624,442	599,888	588,077	587,563
Other Financing Uses		392,154	387,515	433,573		473,000	440,000	491,000	448,000	451,000
Total Stormwater Fund Expenses		1768558.6	1785088.37	2,456,103		2,642,322	2,566,442	2,603,888	2,559,077	2,572,563
Stormwater Fund Excess/(Deficit)		450,606	332,984	(316,735)		(487,322)	(375,442)	(371,888)	(283,077)	(253,563)
UNRESTRICTED STORMWATER FUND BALANCE		1,068,372	1,355,341	1,038,606		551,284	175,842	(196,046)	(479,123)	(732,686)

COUNCIL MINUTES

SPECIAL WORKSHOP MEETING

February 22, 2011

A special workshop meeting of the City Council of the City of Jacksonville was held Tuesday, February 22, 2011 beginning at 5:00 PM in Council Chambers of the Jacksonville City Hall. Present were: Mayor Sammy Phillips, presiding; Mayor Pro-Tem Michael Lazzara and Council Members: Jerry A. Bittner, Fannie K. Coleman, Randy Thomas, and Jerome Willingham. Council Member Bob Warden was unable to attend. Also present were: Richard Woodruff, City Manager; Ron Massey, Assistant City Manager; Adah Roberts, Finance Director; Glenn Hargett, Communications and Community Affairs Director; Grant Sparks, Public Services Director; Reggie Goodson, Planning and Development Services Director; Carmen Miracle, City Clerk; and John Carter, City Attorney. *An audio recording of the Council Meeting is presently available for review in the City Clerk's Office.

CALL TO ORDER

Mayor Sammy Phillips called the meeting to order at 5:00 PM.

ADOPTION OF AGENDA

A motion was made by Councilman Willingham, seconded by Councilman Thomas, and unanimously approved to adopt the agenda as amended to include discussion of property acquisition on New River in Georgetown and between the Bridges as part of the Closed Session.

UNIFIED DEVELOPMENT ORDINANCE REVIEW

Richard Woodruff, City Manager, stated that Clarion Associates had been working on behalf of the City to create a Unified Development Ordinance (UDO). The UDO had been broken up into Modules for review purposes. Module 1, which was previously presented, dealt with administrative matters. Module 2, which was the heart of the zoning ordinance, dealt with various categories and the way land was regulated in the City. Earlier today there was a workshop with the appointed Citizen Committee where the overview of Module 3 was presented. Module 3, which set out the supplemental regulations like parking and landscaping, would be worked on by the committee during the next month and presented to Council during a later workshop.

Using the PowerPoint presentation attached to the official minutes as Exhibit A, Craig Richardson and Chad Meadows from Clarion Associates presented an overview of Module 2. Mr. Richardson stated that the project goals included increased customer-friendliness, streamlined development review, modernized zoning districts and uses, improved development quality, and encouragement of redevelopment. He reviewed Article 3 of Module 2 dealing with Zoning Districts. One of the key structural changes to the UDO was the new district layout to convey zoning concepts. Each district was formatted with the same page layout and improved graphics to add clarity.

Mr. Richardson stated that the new UDO consolidated the current UDO from 23 to 14 districts. Many considerations went into the realignment of the districts including dimensional standards and the CAMA land use plan. He then reviewed the consolidation within each district.

Mr. Meadows added that Clarion Associates were asked to integrate into the UDO the Downtown Code that was created by another firm to implement the Downtown Master Plan. He stated the Downtown Code was now fully integrated; however, the advisory committee indicated they may want more time to consider the items incorporated. Mr. Meadows also reviewed the Planned Development Districts, Conditional Districts and Overlay Districts.

Article 4 of the UDO contained the use standards that described “how can I do what I want to do.” Currently the range of allowable uses was set out by districts in a listed text based format that was somewhat difficult to use. Mr. Meadows stated that uses were revised into a summary use table with a 3-tiered system of use classifications that added modern uses and increased clarity. Article 9 containing the definitions and providing the general rules of interpretation was also reviewed.

Mr. Richardson asked if Council had any questions on the materials covered in Module 2. Mr. Woodruff stated staff had been reading all the documents in detail and he was working with Mr. Carter to review Module 3. They would also re-review Modules 1 and 2. Council would be provided with what was felt to be substantial changes so they could focus on those changes. Mr. Woodruff suggested that after reading the material, Council should provide any questions they had to him, so staff and/or Clarion Associates could answer them.

Mayor Pro-Tem Lazzara stated that Mr. Woodruff answered his question in regards to having an oversight, as Council relied on legal and staff expertise to point out the differences in

Code that are proposed to change. Council needed to know what the changes were and how they affected the public.

Councilman Thomas asked what was going to make our UDO specific to the City of Jacksonville. Mr. Richardson stated there were three main things that made it specific. First, the process started with dialog from stakeholders and review board members who came up with five goals from the outset. Second, the UDO was not started from scratch; whatever was working well in the existing Code was used. They built on what the City already had. There were some items that were integrated from other communities, but those items were vetted by the staff and advisory committee. Third, the process set up was one by which the goal was to use community values. This made it a Jacksonville Code.

Mr. Woodruff added that the professional format may be used by several other cities, but what made it different were the City's thoughts and standards.

Mayor Phillips asked how he could compare the proposed code with the original code. Mr. Richardson said that the public review draft of this document had footnotes which identified and discussed the changes.

Councilman Bittner stated that Council's job would be facilitated by having all the Codes in the same book footnoted to the proper sections, but Staff would need to consolidate and point out the differences to Council. Mr. Woodruff agreed and stated there would be a series of detailed workshops so that staff could walk Council through each section in detail.

CLOSED SESSION

A motion was made by Councilman Bittner, seconded by Councilman Willingham, and unanimously approved to recess the Special Meeting at 5:55 PM in order to convene a Closed Session for the purpose of instructing staff in regards to negotiating property acquisition (intersection of Court, Newberry, Ward and Church Streets, on New River in Georgetown and between the bridges) pursuant to General Statute 143-318.11.

RECONVENE

Mayor Phillips reconvened the Special Meeting at 6:55 PM and announced that no reportable action had been taken in closed session.

ADJOURNMENT

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Thomas, and unanimously adopted to adjourn the meeting at 6:56 PM.

COUNCIL MINUTES

REGULAR MEETING

February 22, 2011

A Regular Meeting of the City Council of the City of Jacksonville was held Tuesday, February 22, 2011 beginning at 7:00 PM in the Council Chambers of City Hall. Present were: Mayor Sammy Phillips, presiding; Mayor Pro-Tem Michael Lazzara and Council Members: Jerry Bittner, Fannie K. Coleman, Randy Thomas, and Jerome Willingham. Councilman Bob Warden was unable to attend. Also present were: Richard Woodruff, City Manager; Ronald Massey, Assistant City Manager, Adah Roberts, Finance Director; Glenn Hargett, Communications and Community Affairs Director; Mike Yaniero, Police Chief; Rick McIntyre, Fire Chief; Grant Sparks, Public Services Director; Reggie Goodson, Planning and Development Services Director; Carmen Miracle, City Clerk; and John Carter, City Attorney. *An audio recording of the Council Meeting is presently available for review in the City Clerk's Office.

CALL TO ORDER

Mayor Sammy Phillips called the meeting to order at 7:02 PM.

PLEDGE OF ALLEGIANCE

Mayor Pro-Tem Michael Lazzara led the Pledge of Allegiance.

INVOCATION

Mr. John Carter pronounced the invocation.

ADOPTION OF AGENDA AND CONSENT ITEMS

A motion was made by Mayor Pro-Tem Lazzara, seconded by Council Member Coleman, and unanimously approved to adopt the agenda as presented

ADOPTION OF MINUTES

A motion was made by Councilman Bittner, seconded by Mayor Pro-Tem Lazzara, and unanimously adopted to approve the minutes of a Special Workshop Meeting held February 9, 2011 as presented and the minutes of the Regular Meeting held February 9, 2011 as presented.

PRESENTATIONS

FINANCE DIRECTOR RECOGNITION

Mayor Phillips recognized the outstanding work Adah Roberts, Finance Director, has done for the City during her tenure and presented her with a plaque of appreciation. Ms. Roberts

stated that it has been a real pleasure working and living in Jacksonville and she thanked everyone. Councilman Bittner noted that in addition to the Municipal Finance Officers award for Financial Reporting, Ms. Roberts was able to attain for the first time in the City's history, the prestigious Budget Reporting award. This was a significant accomplishment.

FIRE DEPARTMENT – VOLUNTEER FIREFIGHTER RECOGNITIONS

Mayor Phillips presented Certificates of Recognition to Volunteer Firefighters Kevin Featherstone, Dan Quinn, George Swarts and Steve Turner for their service and support to the Jacksonville Fire Department. Kenneth Bonner was also recognized, but unable to attend. Chief Rick McIntyre encouraged anyone interested in becoming a Volunteer Firefighter to call City Hall, visit the City website or call Headquarters. Chief McIntyre also presented Mr. Swarts with a special Certificate of Recognition for his service as the Historian and Photographer for the Jacksonville Fire Department.

ADMINISTER OATH – PROMOTION OF JERRY HARDISON TO BATTALION CHIEF

Mayor Phillips reviewed the qualifications and services in firefighting for Battalion Chief Jerry Hardison. Mayor Phillips administered the Oath of Office while Battalion Chief Hardison's wife held the Bible and then pinned on his badge and rank insignia.

PUBLIC COMMENT

Kevin O'Conner, 210 Newport Drive, recapped his thoughts on the Land Application Site problem. He asked of those Council Members who were sitting on Council in 2002 why it took nine years to implement a forestry management program. He also wanted to know why the pH problem hasn't been resolved since it was recognized as a problem back in 2007.

Mac Sligh, 207 Deborah Place, spoke about Crystal Coast Habitat for Humanity. In the past year, Onslow County has merged with Carteret County Habitat for Humanity and they hope with this reorganization they will be able to do many good things. They plan to break ground on a new home in the Spring and look forward to working with the City in providing better housing for those in need. He also stated many ways that citizens could help. Information could be found on the web at www.crystalcoasthabitat.org.

Jerrold Anthony Morrison, Hamlet, NC, commended our citizens and wanted to make sure that during Black History Month light was shed on Captain Fredrick Branch. Captain Branch was born in Hamlet, NC and was the first black commissioned officer for the Marine

Corp. This was the connection between Richmond County and Onslow County. He encouraged everyone not to forget the rural counties and invited everyone to the John Coltrain music entertainment festival in October.

Mayor Phillips recognized Commander David Graves from the National Association of Black Veterans, Local #69 who was in the audience.

NEW BUSINESS

CONSENT ITEMS

TEMPORARY NEW POSITION – PROJECT MANAGER IN ENGINEERING

During the FY11 budget discussions, the Engineering Division requested an additional employee to serve as a Project Manager. At that time, the request was deferred to allow staff to look at various options for funding the position versus adding it as a full time position to be funded by the General Fund. Staff had since identified Capital Improvement Plan (CIP) projects scheduled for FY11, FY12 and FY13 with budgets that, taken together, could provide the funding for a temporary position. At the end of FY13, this authorization would expire and would have to be brought back to Council for appropriation should the continuation of the position be merited. Several months ago, a memorandum summarizing this concept and request for a new temporary employee was sent to Council for consideration and approval. However, adding a new City employee, even a temporary one, required approval by Council through the adoption of an amendment.

Council approved the budget ordinance and the amendment authorizing an additional Full Time Equivalent.

Ordinance 2011-11, Bk.10, Pg. 302

UPDATE TO MUTUAL AID AGREEMENT WITH MCAS-NEW RIVER

The Fire Department utilized several mutual aid agreements with other agencies to provide assistance in responding to emergencies which could exceed existing resources. These agreements were updated from time-to-time. MCAS New River had requested that their Firefighting Mutual Aid Agreement be updated, listing the MCAS New River Command Duty Officer as the contact for requests for assistance. No other changes were requested.

Council authorized the City Manager to sign the Mutual Aid Agreement, and any future revisions to said agreement.

AUTHORIZATION TO CONDEMN FINANCIAL GUARANTEES

As directed by Council, staff requested authorization to process condemnation of the expiring financial guarantees held by the City if the developer was unable or unwilling to provide renewed financial guarantees: Carriage Run Section IV-C at Carolina Forest; Jacksonville Country Club; Southpointe and a portion of Charleston Place at Carolina Forest; and Woodlands Section III F & G. It was also recommended that Mayor and Council allow staff, if necessary, to extend the Surety Agreements and Warranties for up to one year.

Council authorized staff to process condemnation of the financial guarantee if the developer was unwilling or unable to provide proper surety and to extend the Surety Agreement.

TAX RELEASES, REFUNDS, AND WRITE-OFFS

The County/City Tax Collector and City's Finance Director recommended releases, refunds, and write-offs of property taxes respectively \$25,596.76, \$3,474.48, and \$51.90 (\$29,123.14). The detail list of these tax releases and refunds was available in the Finance Office for review.

Council approved the tax releases, refunds and write-offs.

NON-CONSENT ITEMS

PRESENTATION – FREEDOM FOUNTAIN PROJECT

Chairman Dr. Don Herring, Onslow Civic Affairs Committee, noted that the Freedom Fountain was originally designed designate the start of Freedom Way that runs from Jacksonville to the port of Morehead City. The purpose of the fountain was to honor all those who have or are serving our country or who passed through our county in that service. The loss of the fountain in its original location gave the unique opportunity to consider a new location that could tie to the Memorial Gardens where the Beirut, 9/11 and Vietnam Memorials already existed and where more were going to be located.

He stated that with the help of Scott Buttari of Stantec, three conceptual plans of the Freedom Fountain were designed for the Onslow Civic Affairs Committee and the public to give input. After reviewing the many responses received from the public and combined with their heritage interest in the original Freedom Fountain, the Civic Affairs Committee made a recommendation that incorporated many elements from the three different concepts.

Using the PowerPoint presentation attached to the official minutes as Exhibit A, Mr. Buttari presented Concept D from the recommendation. He reviewed step-by-step the elements that were chosen as the preferred option.

Mr. Woodruff stated that staff was on a very aggressive schedule to have the fountain ready for dedication on the Tenth Anniversary of 9/11, which was the goal established by Council. Staff was asking Council to consider adopting Concept D as recommended by the Civic Affairs Committee. The goal was to proceed with the detail design work so that a fundraiser could begin based upon an official opinion of probable cost.

To proceed further, an exemption for engineering services provided by Stantec Consulting Services, Inc. for the Freedom Fountain Project and approval of the budget amendment appropriating the necessary funds was sought.

Mayor Phillips asked if staff had an idea of what percentage of the project would be funded by private donations. Mr. Woodruff stated they did not have a realistic amount, but believed there would be substantial contributions. Staff had been in touch with a number of people in the community, such as builders and merchants who have benefited by the Marines, and the response was positive. It was also hopeful that the County Commissioners would give a substantial contribution to the overall effort.

Councilman Bittner asked if the administration of the fundraising would be handled by the Civic Affairs Committee. Mr. Woodruff stated there was a dedicated fund set up by the City to be used only for the purpose of the fountain.

Councilman Bittner asked if, in addition to the \$15,000 that Council appropriated last year, staff was asking for \$70,000 for engineering and construction management. Mr. Woodruff stated that was correct. In order to take the fountain from concept to reality, a construction plan would be needed. The dollar figure would take staff through to the point to be ready to construct the project.

Councilman Bittner asked whose responsibility it would be to maintain the fountain after completion. Mr. Woodruff recommended since it was adjacent to City Hall and the gateway to the downtown area that it be authorized to be the City's responsibility.

Mayor Pro-Tem Lazzara asked what the expense was for the actual engineering portion and couldn't the appropriated fund balance be funded through the occupancy tax. Mr. Woodruff stated there were various options that staff would bring back to Council for funding and the

occupancy tax was one of those. For the engineering portion, \$7,000 was for the contingency fund, \$8,000 for project management, with the remaining being the design, the necessary engineering components, preparation of the bid documents, award of the bid, and review of bid documents.

A motion was made by Councilman Bittner, seconded by Councilman Thomas, and unanimously adopted to approve the design concept, Resolution and Budget Amendment as presented.

Resolution 2011-04, Bk.6, Pg. 377

Ordinance 2011-12, Bk.10, Pg. 303

AUTHORIZATION TO SUBMIT BUILDING REUSE AND RESTORATION GRANT

Ms. Tracy Jackson, Community Development Specialist, stated that the NC Rural Center, on behalf of local business owner Mr. John Kane, was seeking the City's assistance in accessing funding from the North Carolina Rural Center's Building Reuse and Restoration Program. This program provided forgivable loans for renovations to vacant properties in exchange for an agreement to create one job per \$8,000 received or up to half of the renovation costs, whichever was less. However, the money cannot be loaned directly to the business, but must pass through the City with the City serving as the Grantee. The deadline for grant submission was February 28, 2011. Mr. Kane proposed to renovate the property at 711-713 New Bridge Street for use as a Bicycle Shop. He had already been approved for a private loan, had purchased the building and was in need of this funding to complete the renovation.

A motion was made by Mayor Pro-Tem Lazzara, seconded by Council Member Coleman, and unanimously adopted to approve the authorization to submit the Building Reuse and Restoration application to the North Carolina Rural Center.

APPOINTMENT – MAYOR'S COMMITTEE FOR PERSONS WITH DISABILITIES

There was one (1) vacancy on the Mayor's Committee for an existing three year term that would expire on June 30, 2012. This vacancy was created due to the relocation outside Onslow County of the member that represented the Health Department. There were nine (9) Talent Bank Applications on file in the City Clerks Office. All applicants were contacted and wished to serve.

Council Member Fannie K. Coleman, Council Liaison to the Mayor's Committee, nominated Cheryl Kelly for appointment to the Mayor's Committee for Persons with Disabilities

to an existing three year term expiring June 30, 2012.

A motion was made by Councilman Thomas, seconded by Mayor Pro-Tem Lazzara, and unanimously adopted to close nominations and to appoint Ms. Kelly by acclamation.

PUBLIC COMMENT

There was no one present desiring to speak during this public comment section.

REPORTS

THANK YOU

Councilman Willingham thanked Adah Roberts not only for her service at City Hall, but for her service to the community.

BOARD OF ADJUSTMENT

Councilman Bittner reported that the Board of Adjustment would meet tomorrow to consider a case on a set-back because of a house fire.

ONWASA

Councilman Bittner inquired about receiving a status report on the proposed agreement on the Piney Green sewer between the City and ONWASA.

BOARDS AND COMMISSIONS

Councilman Bittner pointed out the lack of applications of interest for Board service. He was also interested in whether the Boards were still fulfilling their original purpose and if not, perhaps a complete review of Board missions should be undertaken with the possibility of consolidation of some of the Boards.

DISPOSAL OF LIGHT BULBS CONTAINING MERCURY

Councilman Bittner had a citizen approach him about the new federal regulation eliminating traditional incandescent lights in favor of fluorescents. He asked how the fluorescents would be disposed of when they expired because of their mercury content.

MAYOR'S COMMITTEE RESOURCE AND INFORMATION FAIR

Council Member Coleman stated that the Mayor's Committee for Persons with Disabilities would be holding their Annual Resource and Information Fair on Wednesday, March 16, 2011 at the American Legion from 9:00 AM to 2:00 PM. The Information Fair was designed to provide information about the wide variety of resources and services available for children and adults with disabilities.

LAND APPLICATION SITE

Mayor Phillips commented on earlier statements about the land application site. He asked if there were ever NCDENR violations for pH values. Mr. Woodruff stated there had never been any violation for pH values, but the permit that was issued had a parameter of 8.5 for pH. The NC Code does not have a regulation or standard for pH, so the City can not be cited if the pH is higher than the standard on the permit. The inspector from NCDENR suggested that the City take action to have the limit raised or eliminated from the permit.

Mayor Phillips commended the staff and Dr. Woodruff for the work that they have done and the panel that was put together regarding the land application site issue. He stated that the Council had been pro-active prior to the controversy and had held a number of discussions on the matter with staff.

WORKSHOPS

Mr. Woodruff stated that the March 8, 2011 Workshop would be an overview of the Recreation Master Plan. The final draft would be sent to Council this week.

Mr. Woodruff stated that on March 22, 2011, the Capital Improvement Program review would begin. A copy had already been provided to Council.

GOAL SETTING SESSION

Mr. Woodruff stated that the Goal Setting Session last week gave Council the opportunity to talk to each other instead of staff talking to them. The notes from the meeting were in the process of being finalized by Dr. Marianne Herring and would be distributed to Council for their review. There would be further discussions, then the Goals and Mission Statement would be brought before Council as a formal agenda item for review and adoption.

ADJOURNMENT

A motion was made by Mayor Pro-Tem Lazzara, seconded by Councilman Thomas, and unanimously adopted to adjourn the meeting at 8:02 PM.



City Council Presentation

Presentation Item: A Date: 3/8/2011
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Subject: Yard and Business of the Month Beautification Awards

Department: Recreation and Parks

Prepared by: Michael Liquori, Parks Superintendent

Presentation Description

Shane and Tina Tomlinson, residing at 2613 Northwoods Drive and Jerry and Johnny Stevenson of Lejeune Motorsports, 955 Lejeune Boulevard have been recommended to receive a Yard of the Month award from the Beautification and Appearance Commission for outstanding personal and business property appearance.

Councilman Bob Warden is the Council appointed Liaison to the Beautification and Appearance Commission.

Shane and Tina Tomlinson will be present to accept the award. Jerry and Johnny Stevenson will be present to accept the award.

Action

Present Residential Yard of the Month Award to Shane and Tina Tomlinson.

Present Business Yard of the Month Award to Jerry and Johnny Stevenson of Lejeune Motorsports.

Attachments:

None



City Council Presentation

Presentation Item: B Date: 3/8/2011
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Subject: Report to Council – Community Development Advisory Committee

Department: Development Services

Prepared by: Lillie R. Gray, Community Development Administrator

Presentation Description

Mr. Steve Forney, Vice Chairperson of the Community Development Advisory Committee will be in attendance to provide a brief report on the annual activities, accomplishments and goals of the Committee.

Council Member Jerome Willingham is the Council Liaison to the Committee.

Action

Recognize Vice Chairperson Steve Forney to present the report.

Attachments:

None



Presentation Information

Presentation Item: B

Community Development Advisory Committee Report to Council

Mission

It is the mission of the Community Development Division to protect the public, health, safety and welfare and to improve the quality of life for all the citizens of Jacksonville.

Accomplishments

With the support of the Mayor and City Council the Community Development Advisory Committee continues to support the goals and objectives of the U.S. Department of Housing and Urban Development by providing citizen input to the Community Development Division.

The Community Development Advisory Committee meets the third Monday of every even month at 6:00 p.m. Citizens are welcome to attend these meetings.

- The Community Development Division and the Community Development Advisory Committee are currently drafting the 2011-2012 Annual Action Plan which outlines Jacksonville's overall strategy for addressing housing and community development needs for the upcoming year. A community input meeting was held on December 2nd at the Kerr Street Recreation Center. Staff has not been notified of its annual allocation for FY 2011-2012 and we are preparing our plan based on a proposed 7% reduction in funding. In addition, to support and expedite the redevelopment of the Downtown Target Area we propose to apply a Section 108 loan. Details of the proposed use of these funds can be found in the draft plan. The draft plan is currently available for public comment from February 28th to April 5th. A public hearing will be held on Tuesday, April 5th during the City Council meeting.
- We are pleased to report that HUD has approved the City's Analysis of Impediments to Fair Housing. We will continue to ensure that the goals and strategies outlined in this plan are implemented.
- The five projects funded as a result of the American Recovery and Reinvestment Act of 2009 are complete. The selected projects were consistent with the goals and objectives of the stimulus funding, to include energy efficiency and job creation and/or retention.

- In an effort to assist with marketing CD programs the Community Development Advisory Committee participated in National Night Out. We look forward to ongoing opportunities to provide information on CD programs to the citizens of Jacksonville.
- This fiscal year the CREATE program was temporarily suspended due to low student enrollment. We look forward to continuing this partnership with Coastal Carolina Community College next fiscal year. It is our desire to begin constructing new homes on City owned lots on Caviness Drive.
- As part of the Clean & Clean Initiative we continue to support the use of CDBG funds for removal of slum and blight. The Demolition and Clearance program allows dilapidated structures to be removed from the City. This program is designed to improve the overall appearance of our neighborhoods and add value to the tax base. In addition, we are pleased to report that CDBG funding recommendations for upcoming construction projects are consistent with your goal of ensuring funding is targeted to priority areas.
- We also continue to offer programs to repair and renovate housing. For homeowners in need of minor or major repairs this program allows us to preserve the existing housing stock and provide decent, safe and affordable housing, while also improving our tax base.
- Home Buyer Education courses are offered to prepare citizens for homeownership. The seminars are conducted in partnership with local lenders, realtors, NC Extension Services, Camp Lejeune-MCCS, home inspectors and insurance agents. The next course is scheduled for Saturday, March 19th and citizens may contact Community Development to register. This course is a requirement for home buyers accessing Down Payment Assistance through the North Carolina Housing Finance Agency.
- Community Development funds continue to be leveraged with other private funds to support economic development, the homeless, transportation, and to provide rental and utility assistance. Funding also continues to be made available to assist with infrastructure for development of affordable rental housing.

Goals

During the upcoming year it is our goal to continue to be pro-active in our effort to ensure that our mission: “to ensure a better quality of life for all citizens of the City” is accomplished. Based on the status of the national economy we expect our Federal funding to be reduced, possibly even more than the 7% currently projected. Thanks to the support of City Council our ongoing strategy will be to continue to focus CDBG funding on activities occurring in target areas, such as the Weed and Seed Corridor and Downtown Target Area. This will ensure that maximum impact and benefit to the community is achieved.

In closing, the Community Development Advisory Committee is excited about the various initiatives that the City is currently undertaking and the role that Community Development Block Grant funding plays. I am confident that with your continued support, we will continue to do great things for the citizens of Jacksonville.



Request for City Council Action

Agenda Item:	1
Date:	3/8/2011

Subject: Public Hearing (*Legislative*) - Community Development Public Private Partnership - Downtown Target Area Residential Project

Department: Community Development/Legal

Presented by: Lillie Gray, CD Administrator / John T. Carter, Jr., City Attorney

Presentation: Yes

Issue Statement

The City of Jacksonville proposes to enter into a public/private partnership with qualified builders for the development of single-family homes in the general downtown area. The single-family homes will be constructed utilizing a unified development theme. This project is part of the City of Jacksonville Clean and Green Initiative.

Financial Impact

The City will provide Builders with City-owned lots valued at \$40,000 each. These lots will be used to construct attractive, affordable, single-family homes. The Builders will be responsible for securing their own construction financing with all homes meeting minimum specifications as established by the City. The Community Development Division will pay approximately \$25,000 in utility fees to provide water and sewer connections to the property line.

Action Needed

Conduct Public Hearing

Consider Resolution

Recommendation

Staff recommends Council move to adopt the Resolution as presented and authorize the City Manager and City Clerk to sign the builders agreement and deeds conveying these lots subject to conditions set forth in Builder's Agreement.

Approved: ☒ City Manager ☒ City Attorney

Attachments:

- A Proposed Resolution
- B Builder's Agreement
- C&D Maps of Lots to be Conveyed



Staff Report

Community Development Public Private Partnership Downtown Target Area Residential Project

Introduction

The Community Development Division is requesting authorization to enter into a Public-Private Partnership with four pre-qualified builders for the development of single-family homes in the downtown area. The single-family homes will be constructed utilizing a unified development theme. This project is part of the City of Jacksonville's Clean and Green Initiative and redevelopment of the downtown area of the City.

Background Information

The City desires to build approximately 22 homes over the next two or three years with these homes being owner occupied units with home sizes varying from 1000 to 1500 square feet in size. Under the public/private partnership, the City will provide the lots, with the builders providing the homes as speculative development homes. Fifty-one percent of the potential owners must meet the City's standards for low to moderate income with the remaining 49% being market rate homeowners. Potential homeowners must secure private financing for a 30 year fixed rate loan through conventional lending institutions as the first mortgage position on the homes. The City of Jacksonville will hold a second mortgage on the lot with the second mortgage being forgiven over a 10 year period, provided the homeowners meet all conditions of the loan requirements. Participating builders will be required to secure their own construction financing with all homes meeting minimum specifications as established by the City of Jacksonville. A Builders' Agreement has been developed to protect the City's investment and ensure that a public purpose is achieved.

This project is consistent with the Downtown Master Plan, City Council Goal #2: Develop Strategies to Implement Downtown Development Plan, and the Five Year Consolidated Plan.

An RFQ was released on October 1, 2010 soliciting interested builders. Four builders' submitted qualifications and all were approved to participate. To begin implementation the City proposes to provide each builder with one lot to construct a new low to moderate income home.

Procedural History

- September 28, 2010 – City Council Workshop on Concept
- October 1, 2010 – RFQ Released

- October 29, 2010 - Due date for Builder Qualifications
- November 4, 2010 - Evaluation committee meeting
- November 2010 – February 2011 – Builders Meeting and Development of Agreement

Stakeholders

- Downtown Residents
- Builders
- Citizens of Jacksonville

Options

Adopt the Resolution as presented – **RECOMMENDED**

- Pros: Supports the Downtown Master Plan, City Council goals and Five Year Consolidated Plan. Targeted area in downtown will be improved to include development of affordable housing, increased tax base, and economic development opportunities. Public-private partnership creates opportunity to leverage limited Federal funding to increase the supply of affordable housing.
- Cons: None

Deny the Resolution

- Pros: None
- Cons: City will be responsible for all funding required to develop the property.

Defer Consideration – Should Council desire additional information, provide direction to staff on the specific information Council would like to receive.

RESOLUTION (2011-)

RESOLUTION APPROVING CONVEYANCE OF PROPERTY
PURSUANT TO G.S. 160A-457

WHEREAS, North Carolina General Statute § 160A-457 authorizes a city to convey by private sale real property located in a community development project area; and

WHEREAS, the Jacksonville City Council has designated the described area below located in the Downtown as a community development project area and has adopted a community development plan for the area; and

WHEREAS, the City of Jacksonville owns the described parcels in this area; and

WHEREAS, the City of Jacksonville initiated a Request for Qualifications (RFQ) process dated October 1, 2010 in order to pre-qualify builders/developers for this project; and

WHEREAS, the Builders Agreement associated with this project requires that 51% of the potential buyers of the constructed homes must meet the City's standards for low to moderate income households; and,

WHEREAS, the Builders Agreement is hereby made a part of this Resolution as if fully set out and is attached as Exhibit A; and,

WHEREAS, the property to be conveyed is as follows:

Being all of Lot 18 and Lot 19 as shown on survey plat entitled "Boundary Survey for City of Jacksonville" prepared by Charles F. Riggs & Associates, Inc., dated February 22, 2011 recorded in Map Book 61, Page 155, Slide M-1949, Onslow County Registry. And, Being all of "Portion of Lot 10" and "Portion of Lot 9" as shown on survey plat entitled "Boundary Survey for City of Jacksonville" prepared by Charles F. Riggs & Associates, Inc., dated February 22, 2011 recorded in Map Book 61, Page 154, Slide M-1948, Onslow County Registry.

WHEREAS, the City engaged in private negotiations for the conveyance of the parcels to the selected builders/developers as follows:

1. Delphi Construction-- Lot 19
2. Eastern Builders of the Carolinas, Inc. -- Lot 18
3. Hadley Olde Towne, LLC-- Portion of Lot 9
4. Marlo Construction-- Portion of Lot 10

WHEREAS, the Jacksonville City Council has held a public hearing to consider whether to approve conveyance of the tracts;

NOW THEREFORE, the Jacksonville City Council resolves that:

1. That the City will receive through ad valorem taxes and other benefits of redevelopment in a blighted area the fair market value of these lots by new homes being built in accordance with the attached Builder's Agreement.
2. The Community Development Downtown Target Area project is in the best interest of the City of Jacksonville.
3. The City Manager and City Clerk of the City of Jacksonville are authorized to execute all documents necessary to convey the property.

Adopted by the Jacksonville City Council in regular session this 8th day of March, 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk

Attachment

A

BUILDERS AGREEMENT

This agreement made this the _____ day of _____, 2011, between the CITY OF JACKSONVILLE, a Municipal Corporation (hereinafter CITY) and _____, (hereinafter BUILDER); and its successors in interest, as follows:

WHEREAS, The CITY proposes to enter into a Public/Private Partnership with qualified builders for the development of single-family homes in the general downtown area and the single-family homes will be constructed utilizing a unified development theme. This project is part of the City of Jacksonville's Clean and Green Initiative.

WHEREAS, The CITY desires to build approximately 22 homes over the next two or three years, with these homes being owner occupied units and varying in size with a minimum of 1000 square feet. Under this Public/Private Partnership, the CITY will provide the lots, with the BUILDER providing the homes as speculative development homes. Fifty-one percent of the potential owners must meet the CITY's standards for a low to moderate income household with the remaining 49% being market rate homeowners. Potential homeowners must secure private financing for a 30 year fixed rate loan through conventional lending institutions as the first mortgage position on the homes. The CITY will hold a second mortgage on the lot, with the second mortgage being forgiven over a 10 year period, provided the homeowner meets all conditions of the loan requirements as detailed in the loan documents between the homebuyer and the CITY. Participating builders will be required to secure their own construction financing with all homes meeting minimum specifications as established by the CITY.

WHEREAS, _____ is the successful BUILDER with qualifications to develop on CITY owned lot(s) in the downtown area and whereas the project has received assistance from the CITY using Community Development Block Grant funding, the purpose of this agreement is to set forth the mutual obligations of the parties, and

WHEREAS, this project is a part of the long term redevelopment plan for the Downtown Master Plan which holds the CITY responsible to ensure its proper execution, and

NOW THEREFORE, the purpose of this document is to memorialize the terms and conditions of this agreement for the development of City owned lots as legally described below.

Attachment

B

STATEMENT OF FACTS AND INTENT

The CITY is the owner of Parcel Number _____, legally described as _____

as recorded in Map Book ___, Page _ Onslow County Register of Deeds.

BUILDER agrees to build on said property subject to the terms of this agreement and BUILDER has a current commitment from the lender whose name appears below to lend funds sufficient to construct affordable housing on the lot(s);

The CITY agrees to convey to the BUILDER for construction purposes title to said property which is the subject of this agreement upon receipt by the CITY of a Purchase Money Note and Deed of Trust executed by the BUILDER which shall constitute a first lien against the property for the amount of the purchase price of the property. The property will be conveyed subject to the conditions and restrictions contained in this said Builder's Agreement. These said conditions to be made a part of deed and/or Purchase Money Note and Deed of Trust. No secondary financing shall be allowed on this said property.

Because the City is desirous of the revitalization of the Downtown Target Area, the CITY will allow the BUILDER to build on this lot(s) if BUILDER agrees to sell to a qualified buyer. A qualified buyer is defined as "a person or persons whose household income is no greater than eight percent (80%) of the AMI (Area Median Income) for the City of Jacksonville, North Carolina, as established by the U.S. Department of Housing and Urban Development";

Upon completion of construction, the CITY agrees to hold a second mortgage on the lot with the second mortgage being forgiven over a 10 year period. The terms and conditions of the second mortgage will be detailed in the loan documents between the CITY and the homebuyer;

BUILDER acknowledges that potential homebuyers must secure private financing for a 30 year fixed rate loan through conventional lending institutions as the first mortgage;

BUILDER agrees that if a Realtor is used in the sale of this lot(s) the CITY will pay fifty percent (50%) of the commission not to exceed 2.5%.

BUILDER acknowledges that the Downtown Target Area is made possible by public funds for the purpose of provide affordable housing, and that the ownership of lots in the Downtown Target Area are subject to audit;

BUILDER agrees that all house and site plans must be approved by the City of Jacksonville's Planning, Community Development and Inspections divisions before beginning construction;

Based on the foregoing Statement of Facts and Intent, the undersigned agree to the following:

OPERATIVE PROVISIONS

SECTION 1 – RESPONSIBILITIES OF BUILDER

1. In order to protect the moderate income character of the Downtown Target Area, BUILDER and its successors in interest agree:
 - a. To make all necessary improvements to the lot(s), set sales prices, and use design standards for each home in accordance with the Housing Specifications (Exhibit A).
 - b. To construct all homes in accordance with local and state building codes.
 - c. To solely and entirely manage the construction of the project, including but not limited to directing, paying and insuring subcontractors, and for site security and safety.
 - d. To ensure that all subcontractors and material suppliers will be paid in full for each house constructed under this agreement.
 - e. To begin construction within 90 days and to complete construction and provide evidence of the Certificate of Occupancy within 12 months of the date of this agreement.
 - f. This Builder's Agreement and Note and Purchase Money Deed of Trust back to City shall be signed by the Builder and City within 30 days of Council action approving this public private partnerships
 - g. To use the lot for no other purpose than the construction and sale of a single family residence affordable by a person or persons whose household income is no more than 80% of the AMI.
 - h. To install sidewalks and meet all local and state building requirements.

SECTION 2 – RESPONSIBILITIES OF CITY

1. To provide land previously described which is valued at \$40,000 for each lot.
2. To provide second mortgage for the value of the lot(s) to person or persons whose household income is no more than 80% of the AMI and who are able to secure financing for the first mortgage. This second mortgage will be subject to restrictions as described in the Deed of Trust.
3. To assist with marketing the homes to income eligible homebuyers and verifying income of potential homebuyers.
4. To provide water and sewer connections to the property line.
5. Prior to sale of home, the CITY will secure an appraisal which will establish the value of the house for first mortgage purposes and the value of the land for second mortgage purposes. Cost of said appraisal will be borne equally by both parties. CITY will hold a second mortgage on the lot with said second mortgage being forgiven over a 10 year period, provided the homeowner meets all conditions of the loan requirements.

SECTION 3 - DEFAULTS AND REMEDIES

1. No section of this Agreement may be amended at any time after signing, except by written agreement between both parties. Written and signed amendment agreements shall be attached to this Agreement and made a part of it for the duration of the Agreement period.
2. All houses will be built as per plans provided to and approved by the CITY and be of a workman like standard of quality. Code requirements and written and agreed upon plan alterations shall supersede plans. Failure to perform on any part of the Agreement shall be a basis for default.
3. The CITY may foreclose on said property and cancel this agreement with respect to any entity or individual named herein in the event that construction has not begun within 90 days or construction completed with 12 months from the date of this agreement and a Certificate of Occupancy provided.
4. In the event of default on the part of the BUILDER for any of the provisions within this Agreement, the CITY shall give written notice and the BUILDER shall have ten (10) days to cure the default. If the default cannot be completely cured within ten (10) days, the CITY shall notify the BUILDER in writing of a time limit for completion. If thereafter such default is not cured within the time limit, the CITY may at its option and upon written notice to the BUILDER, seek additional damages by legal actions as per the CITY's discretion. The said legal actions shall include, but are not limited to, foreclosure on the said Purchase Money Note and Deed of Trust.
5. Either party may, at any time during the term of this Agreement, or any extension thereof, terminate this Agreement by giving twenty (20) days written notice of its intention to terminate. During the twenty day period, the parties agree to attempt to resolve the matter(s) which caused the request for termination. If the party giving the termination notice does not withdraw the notice, this Agreement shall terminate upon the expiration of the twenty day notice period stated above.
6. The BUILDER may be granted extensions for delays that are not within his control such as unreasonable delays in the approvals of plans or issuance of permits, shortage of materials or natural disasters, lot problems including unsuitable soils, rock, existing structural debris or subsurface remains, unsuitable services or other conditions which make the lot "unbuildable." Such extensions shall be granted only upon a documented showing of good cause and shall be granted only at the option of the CITY and shall be for specific time periods. Failure to comply with such specific time periods shall be considered a default.

SECTION 4 - SUCCESSORS AND ASSIGNS:

1. The CITY and the BUILDER each binds himself and his partners, successors, executors, administrators and assigns to the other part of this agreement and to the partners, successors, executors, administrators and assigns of such other partner, with respect to all covenants of this agreement. Neither the CITY nor the BUILDER will assign, sublet, or transfer his interest in this agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be party hereto, nor shall it be construed as giving rights or benefits hereunder to anyone other than the CITY and the BUILDER.

SECTION 5 - NONDISCRIMINATION AGREEMENT

1. The BUILDER agrees not to discriminate in any manner on the basis of age, handicap, sex, race, sexual orientation, color, creed or national origin with reference to the subject matter in this Agreement. The parties further agree in all respects to conform with the policies and intentions of the CITY and its residents with regard to any legislation or program under which this project is being executed, and agrees that these conditions may be enforced by action for the specific performance, injunctive relief or other remedy as by law provided.

SECTION 6 - LEAD-BASED PAINT:

1. No lead-based paint shall be used on this project.

SECTION 7 - HOLD HARMLESS:

1. The BUILDER agrees to indemnify and hold harmless the CITY and its agents and employees from and against any and all claims, damages, losses, and expenses including reasonable attorney's fees caused by the negligent acts, errors or omissions of the BUILDER in performance of professional services under this Agreement.

SECTION 8 - INSURANCE REQUIREMENTS:

1. The BUILDER or sub-contractors under this Agreement shall not enter the project site unless, or until a proper and adequate liability insurance policy and workers' compensation insurance policy are in place, and acceptable original copies of insurance certificates are on file with the CITY in the offices of the Community Development Division.
2. .
3. The Builder will be required to ensure that all sub-contractors have proper insurance which coverage shall include property damage and bodily injury insurance of sufficient value or the General Contractor's insurance shall cover said subcontractors.
Builder will carry "builder's risk" insurance for said property and project site. Evidence of policy must be provided to CITY prior to the start of construction.

4. NO CONFLICT OF INTEREST:

1. No employees of the **CITY, members of local** governing bodies or other public officials in the locality which the project is situated, shall be admitted to any share or part of this Agreement, or shall have any financial interest directly or indirectly in contract or subcontract, or receive any proceeds or benefits under this Agreement. Immediate family members of said members, officers, employees, agents or officials, are similarly barred from having any financial interest in or benefit from the project. All parties to this Agreement shall incorporate or cause to be incorporated in all subcontracts, this provision prohibiting such interest pursuant to the purpose of this section.

IN WITNESS WHEREOF, the parties hereunto have set their hands and seals on the date first above written.

BUILDERS NAME

BY: _____ (SEAL)
_____, **Owner**

WITNESS:

CITY OF JACKSONVILLE

BY: _____ (SEAL)
RICHARD L WOODRUFF, City Manager

ATTEST:

Carmen Miracle, City Clerk

The loan commitment attached hereto is current and relates to the lots set forth above.

Lender

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Signature

EXHIBIT A

CLEAN & GREEN JACKSONVILLE PUBLIC PRIVATE PARTNERSHIP DOWNTOWN TARGET AREA

HOUSING SPECIFICATIONS & DESIGN STANDARDS

(Revised February 11, 2011)

1. Single-family homes
2. Minimum of 1000 heated square feet
3. Traditional Neighborhood Design (See attached photos)
4. Front façade must be oriented to the street.
5. One or two stories
6. Minimum two Bedrooms and two Bathrooms
7. Metal roofs with 6/12 pitch or greater preferred. Asphalt or fiberglass shingles with 30-year life or simulated slate may be substituted. Eave overhangs are also strongly encouraged with minimum depth of 12”.
8. Front door must be enhanced with trim.
9. Front porch required. Must be covered. Minimum depth 8 feet and covering 60% of front of house. Posts must be minimum diameter of 8” and include cap and base. No vinyl posts. All wood must be painted white or wrapped with a finish that does not require painting. Rails must be non-wood product. May wrap with vinyl or aluminum. Simulated wood products must be approved by the City.
10. Rear porches (optional)
11. Foundations. Must be 2’ minimum height from grade. No slab on grade construction. Must be enclosed and constructed with brick or stucco. No visible concrete block. Screening may be used between foundation.
12. Siding must be HardiePlank or equivalent and may also include wood, shingles, board and batten, or brick. All exterior trim shall be painted white. Simulated wood products must be approved by the City.
13. Earth tone palette preferred. Submit color samples to be approved by Community Development.
14. Single-hung, double pane insulated windows. Trim must be minimum 3.5” and flat. Trim must be made of wood or composite material. Muntins are not allowed.
15. Dishwasher, Refrigerator, Stove required. Washer and Dryer connections will be required. **No garbage disposals.**
16. Central heat and air. May be electric, gas or combination. Heat Pumps shall be Seer 13 minimum. Split system shall have a 90% efficient furnace and an air conditioner rated Seer 13 minimum
17. Landscaping – At a minimum sod front yard, seed and straw other yards, two trees and 20 shrubs, minimum 3-gallon.
18. Driveways – Shall be ribbon, Material may be concrete or brick. No circular driveways. Must be perpendicular to the street.
19. Garages – If provided shall be detached or recessed from the principal front façade at least 10’. Must have eave over garage door.

20. Shutters – If provided must correspond in size and shape to their respective openings. Shutter material must be approved by the City.
21. Fences – No fences in front or side yards. Rear fences only and maximum of 4'. Fences must be behind building line of house. Materials must be consistent with design guidelines.
22. Cabinets – Must install wood cabinets. No pressboard or particle board allowed.
23. Energy Efficiency – Must be constructed using latest energy efficient techniques and energy star rated appliances.

Examples of Desired House Designs

The City desires to create a visual impact in the downtown area based on the existing characteristics of downtown while also improving the overall image. The following pictures provide examples of housing designs that would be suitable for this proposal.



Picture Courtesy of TightLines Designs



Picture Courtesy of TightLines Designs



Picture Courtesy of TightLines Designs



Existing Home in Downtown



Existing Homes in Downtown

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK _____ PAGE _____); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES AND DRAWN FROM INFORMATION FOUND IN DEED BOOK _____ PAGE _____; THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1: 10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS _____ DAY OF _____ A.D. 2011

CHARLES FRANCIS RIGGS, P.L.S. _____ L-2981.

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE _____ X _____ WHICH IS NOT A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER 370178 37204378008, NOVEMBER 3, 2009

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981, CERTIFY TO ONE OR MORE OF THE FOLLOWING AS INDICATED THUS: _____

- _____ A. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- _____ B. THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- _____ C. ANY ONE OF THE FOLLOWING:
- 1) THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.
- 2) THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE.
- 3) THAT THE SURVEY IS A CONTROL SURVEY.
- _____ D. THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION
- _____ E. THAT THE INFORMATION AVAILABLE TO THIS SURVEYOR IS SUCH THAT I AM UNABLE TO MAKE A DETERMINATION TO THE BEST OF MY PROFESSIONAL ABILITY AS TO THE PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.

CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981

THIS SURVEY IS OF EXISTING PARCELS, THEREFORE, IT DOES NOT REQUIRE THE CITY OF JACKSONVILLE APPROVAL

DATE _____ CITY OF JACKSONVILLE PLANNING DIVISION

STATE OF NORTH CAROLINA, COUNTY OF ONSLOW
CLERK OF COURTS
I, _____, CLERK OF COURTS OF ONSLOW COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE _____ REVIEW OFFICER _____



REGISTER OF DEEDS _____

CHARLES F. RIGGS & ASSOCIATES, INC. (C-730)

LAND SURVEYING – CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
LAND PLANNING & COMPUTER MAPPING

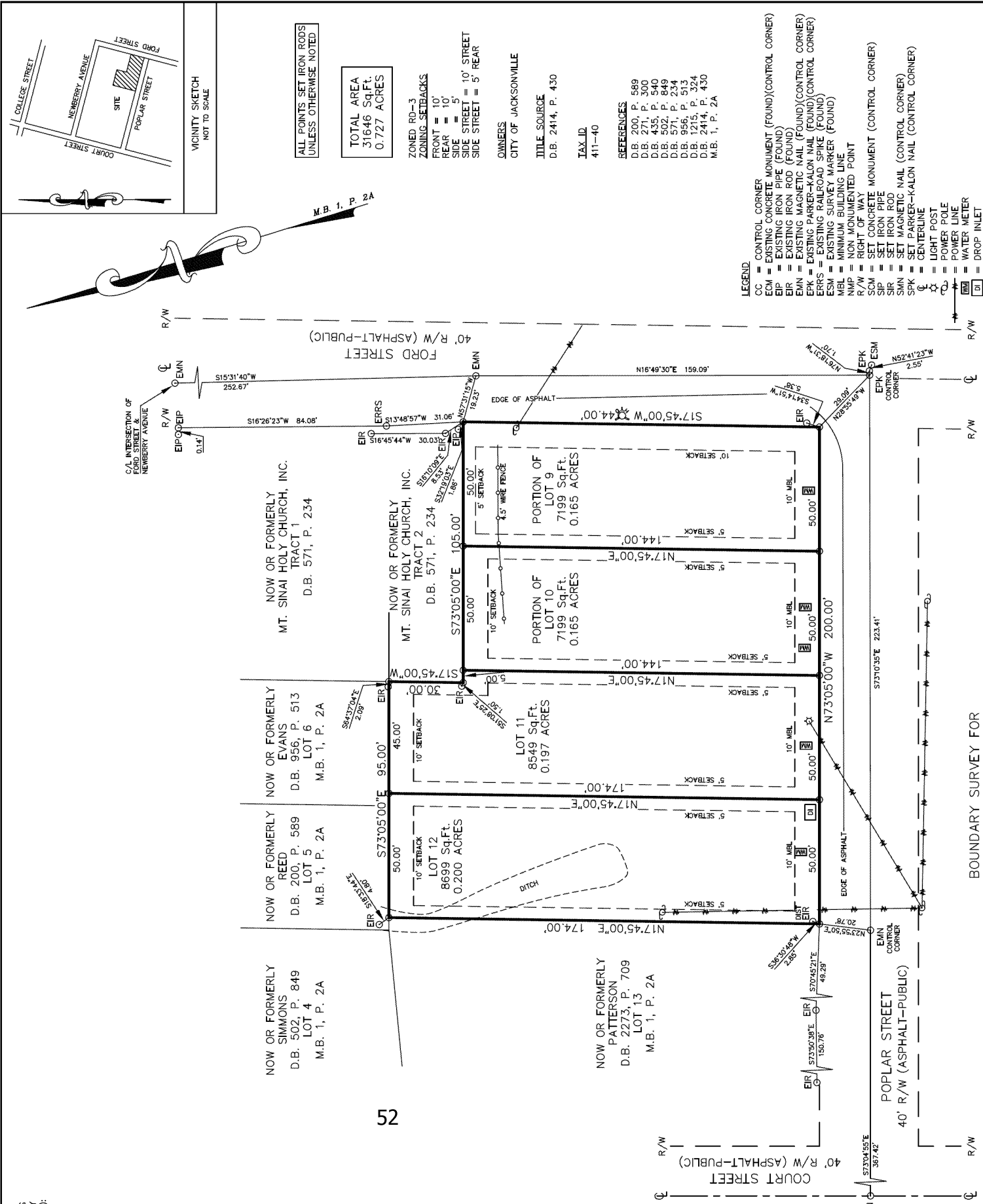
502 NEW BRIDGE STREET
P.O. BOX 1570
JACKSONVILLE, N.C. 28541-1570
TELEPHONE: (910) 455-0877
FACSIMILE: (910) 455-9033
E-MAIL: riggsland@bizec.rr.com

PORTIONS OF LOTS 9 – 11, & ALL OF LOT 12
PROPERTY OF H.M. LOY, M.B. 1, P. 2A
JACKSONVILLE TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA
POPLAR AVENUE

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

DATE: FEBRUARY 22, 2011
DRAWN BY: J. HELMIS
FIELD BOOK: 661 PAGE: 47
COMPUTER: VAULT/10-10-15/10-10-15.RECORD.dwg

PROJECT NUMBER: 10-10-15



GRAPHIC SCALE



Attachment

C

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK _____ PAGE _____); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS BROKEN LINES; AND DRAWN FROM INFORMATION FOUND IN DEED BOOK _____, PAGE DEPARTURES IS THE RATIO OF THE REGION AS CALCULATED BY LATITUDES AND DEPARTURES IS 1:10,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. § 20-30 AS AMENDED, WITHIN MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS _____ DAY OF _____ A.D. 2011

CHARLES FRANCIS RIGGS, P.L.S. _____ [L-2981]

THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE _____ WHICH IS NOT A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, AND THE NATIONAL FLOOD INSURANCE PROGRAM. COMMUNITY PANEL NUMBER _____ 370178_3720437600J, NOVEMBER 3, 2005

I, CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981, CERTIFY TO ONE OR MORE OF THE FOLLOWING AS INDICATED THUS: _____

- _____ A. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- _____ B. THAT THE SURVEY IS LOCATED IN A PORTION OF A COUNTY OR MUNICIPALITY THAT IS UNREGULATED AS TO AN ORDINANCE THAT REGULATES PARCELS OF LAND.
- _____ C. ANY ONE OF THE FOLLOWING:
- 1) THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET;
- 2) THAT THE SURVEY IS OF AN EXISTING BUILDING OR OTHER STRUCTURE, OR NATURAL FEATURE, SUCH AS A WATERCOURSE;
- 3) THAT THE SURVEY IS A CONTROL SURVEY.
- _____ D. THAT THE SURVEY IS OF ANOTHER CATEGORY, SUCH AS THE RECOMBINATION OF EXISTING PARCELS, A COURT-ORDERED SURVEY OR OTHER EXCEPTION TO THE DEFINITION OF SUBDIVISION
- _____ E. THAT THE INFORMATION AVAILABLE TO THIS SURVEYOR IS SUCH THAT I AM UNABLE TO MAKE A DETERMINATION TO THE BEST OF MY PROFESSIONAL ABILITY AS TO THE PROVISIONS CONTAINED IN (A) THROUGH (D) ABOVE.

CHARLES FRANCIS RIGGS, PROFESSIONAL LAND SURVEYOR NO. L-2981

THIS SURVEY IS OF EXISTING PARCELS, THEREFORE, IT DOES NOT REQUIRE THE CITY OF JACKSONVILLE APPROVAL

DATE _____ CITY OF JACKSONVILLE PLANNING DIVISION

STATE OF NORTH CAROLINA, COUNTY OF ONSLOW

I, _____ REVIEW OFFICER OF ONSLOW COUNTY CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE _____ REVIEW OFFICER _____

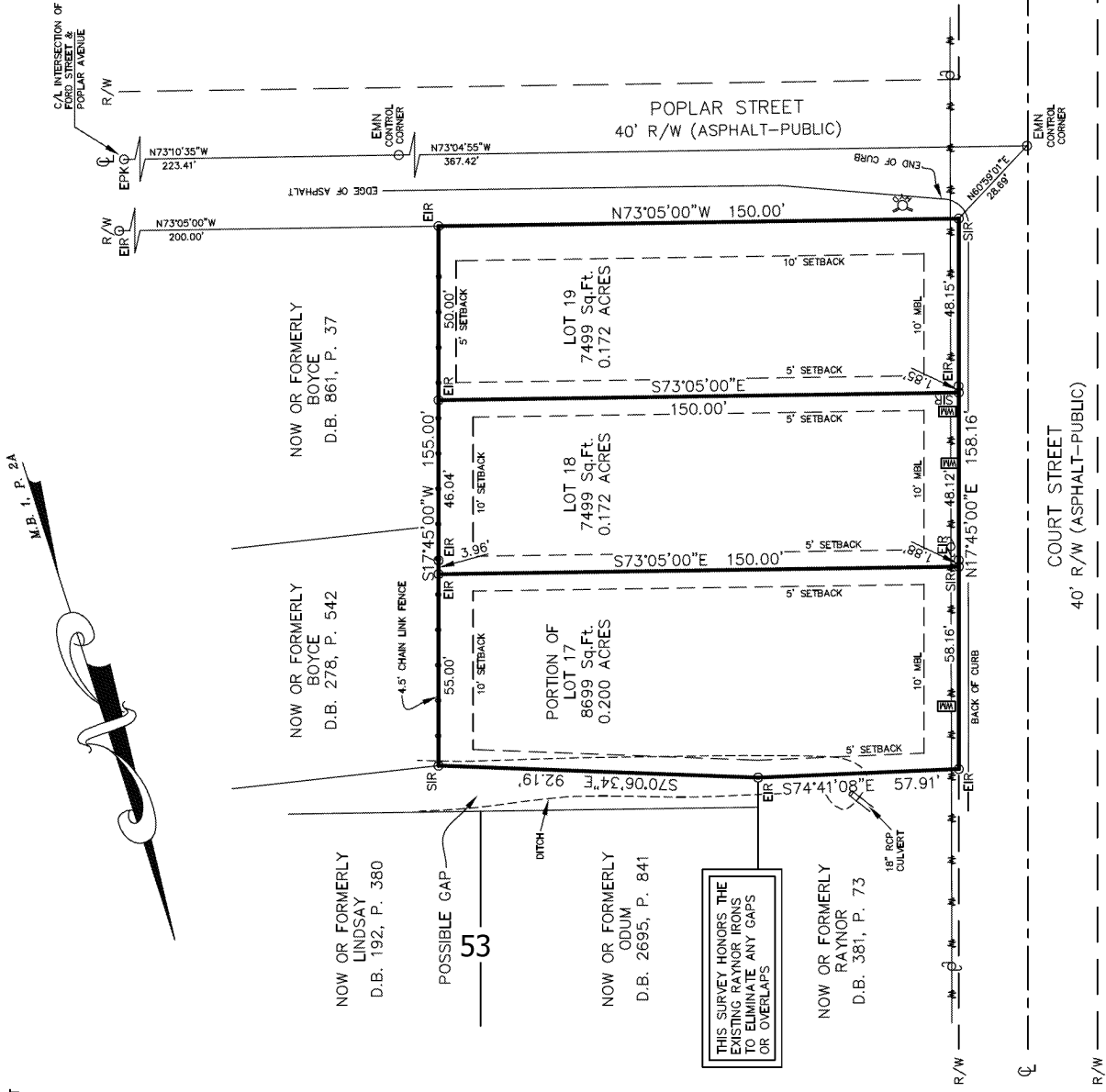
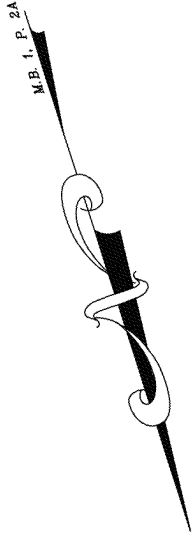
SIDE _____

REGISTER OF DEEDS _____

CHARLES F. RIGGS & ASSOCIATES, INC. (C-730)

LAND SURVEYING - CONVENTIONAL & GLOBAL POSITIONING SYSTEMS,
LAND PLANNING & COMPUTER MAPPING

502 NEW BRIDGE STREET
P.O. BOX 1570
JACKSONVILLE, N.C. 28541-1570
TELEPHONE: (910) 455-0877
FACSIMILE: (910) 455-9033
E-MAIL: riggsland@bizec.rr.com



THIS SURVEY HONORS THE
EXISTING EASEMENTS
TO ELIMINATE ANY GAPS
OR OVERLAPS

PRELIMINARY PLAT
NOT FOR RECORDATION,
CONVEYANCES OR SALES

BOUNDARY SURVEY FOR

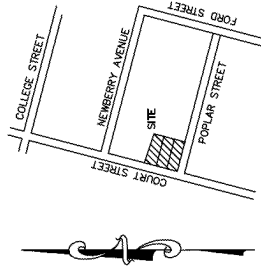
CITY OF JACKSONVILLE

PORTION OF LOT 17, ALL OF LOTS 18 & 19

PROPERTY OF H.M. LOY, M.B. 1, P. 2A

JACKSONVILLE TOWNSHIP, ONSLOW COUNTY, NORTH CAROLINA

COURT STREET



VICINITY SKETCH
NOT TO SCALE

TOTAL AREA
23697 Sq.Ft.
0.544 ACRES

ZONED RD-3
ZONING SETBACKS
FRONT = 10'
REAR = 10'
SIDE STREET = 5'
SIDE STREET = 10' STREET
SIDE STREET = 5' REAR

OWNERS
CITY OF JACKSONVILLE

TITLE SOURCE

D.B. 1761, P. 902 (LOT 17)
D.B. 1990, P. 157 (LOTS 18 & 19)

TAX ID

411-33 (LOT 17)
411-34 (LOT 18)
411-35 (LOT 19)

REFERENCES

D.B. 200, P. 589
D.B. 271, P. 540
D.B. 278, P. 542
D.B. 381, P. 73
D.B. 435, P. 540
D.B. 502, P. 849
D.B. 571, P. 234
D.B. 956, P. 513
D.B. 1215, P. 324
D.B. 1761, P. 902
D.B. 1990, P. 157
D.B. 2244, P. 450
M.B. 1, P. 2A

LEGEND

CC = CONTROL CORNER
ECM = EXISTING CONCRETE MONUMENT (FOUND)(CONTROL CORNER)
EIP = EXISTING IRON PIPE (FOUND)
EIR = EXISTING IRON ROD (FOUND)
EMN = EXISTING MAGNETIC NAIL (FOUND)(CONTROL CORNER)
EPK = EXISTING PARKER-KALON NAIL (FOUND)(CONTROL CORNER)
ERRS = EXISTING RAILROAD SPIKE (FOUND)
ESM = EXISTING SURVEY MARKER (FOUND)
MBL = MINIMUM BUILDING LINE
NMP = NON MONUMENTED POINT
R/W = RIGHT OF WAY
SCM = SET CONCRETE MONUMENT (CONTROL CORNER)
SIP = SET IRON PIPE (FOUND)
SIR = SET IRON ROD
SMN = SET MAGNETIC NAIL (CONTROL CORNER)
SPK = SET PARKER-KALON NAIL (CONTROL CORNER)
CL = CENTERLINE
LP = LIGHT POST
PP = POWER POLE
FL = FIRE LINE
FH = FIRE HYDRANT
WM = WATER METER

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.

DATE: FEBRUARY 22, 2011

DRAWN BY: J. HELMS

FIELD BOOK: 661 PAGE: 51

COMPUTER: VAULT/10-11-12/10-11-12 RECORD.dwg

PROJECT NUMBER: 10-11-12

Attachment

D



Request for City Council Action

Agenda Item:	2
Date:	3/8/2011

Subject: Public Hearing (*Legislative*) - Growth Management Element Plan Land Use Map Amendment – 838 Gum Branch, Spa Place LLC

Department: Planning & Development Services

Presented by: Mary Sertell, Senior Planner

Presentation: Yes

Issue Statement

A request to amend the Growth Management Element Plan by changing the Future Land Use (FLU) designation of one parcel from Low Density Residential (LDR) to Neighborhood Commercial (NC).

Financial Impact

None

Action Needed

Conduct Public Hearing

Consider Amendment to the Growth Management Element Plan

Recommendation

Planning Board and staff recommend Council move to approve the Resolution amending the Land Use Map designation from Low Density Residential (LDR) to Neighborhood Commercial (NC).

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Draft Planning Board Minutes – February 14, 2011
- B Proposed Resolution
- C Existing GME Land Use Map
- D Existing Draft CAMA Land Use Map
- E Proposed GME Land Use Map



Staff Report

Growth Management Plan Element Land Use Map Amendment from LDR to NC
838 Gum Branch Road, Spa Place LLC

Introduction

Spa Place LLC/ Juliana Norris has submitted a request to amend the *Growth Management Element* Plan pursuant to a rezoning request. The future land use request is to change the Future Land Use (FLU) designation of one parcel consisting of 0.40 acres within the City of Jacksonville limits from Low Density Residential (LDR) to Neighborhood Commercial (NC). The parcel is located at 838 Gum Branch Road, northwest of the Gum Branch Road and Marine Boulevard intersection.

Procedural History

- On January 10, 2011, the applicant submitted a rezoning request and a formal request to amend the *Growth Management Element* Plan.
- On February 14, 2011 the Planning Board made a recommendation to amend the *Growth Management Element* Plan Future Land Use Map.
- On March 8, 2011 City Council will conduct a public hearing to consider this request to amend the *Growth Management Element* Plan Future Land Use Map.

Stakeholders

- Spa Place LLC/ Juliana Norris – Property Owner/Applicant
- Surrounding property owners - Owners within 100 feet of the area proposed for rezoning have been notified via first class mail of the upcoming public hearing. In addition, a courtesy notification was sent out informing these same owners about the Planning Board meeting.

Growth Management Policies & Goals Assessment

Staff has reviewed the adopted Growth Management Element Plan (GME), as well as the proposed CAMA Land Use Plan Update and has determined that the amendment is applicable to several of the goals and policies established in each document. They are summarized as follows:

- Maintain a sustainable mix of land uses in and around the City through effective, coordinated growth management (GME Goal 1).
- Promote land use compatibility (GME Goal 2)
- Ensure that neighborhood commercial facilities are located so as to serve residential areas without disrupting the integrity of the residential areas (GME Policy 2.1)
- Encourage a mixture of retail, office, civic and public benefit uses to promote convenience, efficiency and long-term vitality of commercial areas (GME Policy 2.3)

- Protect critical neighborhood commercial and regional commercial corridors and gateways to encourage land use compatibility and improve corridor function and appearance (GME Goal 6)
- Protect stable single-family neighborhoods from the intrusion of incompatible residential and non-residential buildings (GME Policy 7.3)
- Ensure that new development and redevelopment projects within and near neighborhoods are designed to protect residents from unsafe or congested streets, noise, and other impacts that reduce neighborhood stability (GME Policy 7.6)
- Encourage development that uses existing facilities and is compatible with existing development (GME Policy 16.3).

Land Use Assessment

Adopted CAMA Land Use Plan (1999)

The adopted CAMA Plan from 1999 identifies the area's land classification as "Developed." Areas that are identified as "developed" are urban in character with no or minimal undeveloped land remaining. "Developed" land accommodates a variety of uses from residential, commercial, industrial and other land uses at high or moderate densities in excess of 3 units per acre.

While the 1999 Plan is the City's only adopted CAMA Plan at this time, the age of the plan should be recognized and as such, the Plan is not entirely indicative of current growth trends. Because of the significant changes in growth patterns within the City and the ETJ, the 1999 Plan should be viewed as a historical document instead of a true guide for future growth and development.

The Growth Management Element Plan Future Land Use Map (2007)

The Growth Management Element identifies the subject parcels as Low Density Residential (LDR) in its Future Land Use Map.

LDR represents primarily single family detached residential development with home occupations, schools, churches and other non-profit organizations.

The amendment request is to change the entire parcel, comprising 0.40 acres to Neighborhood Commercial (NC). NC provides small areas for office and professional services combined with limited retail uses, designed in scale with surrounding residential uses.

The GME Future Land Use designations of nearby properties are LDR to the North, East and West and LDR and Office (O) to the South.

The GME Future Land Use Map is sometimes an accurate depiction of current land uses in Jacksonville, but it often does not take into consideration future growth patterns and trends. Because of this short-term land use approach, all Future Land Use Amendments should consider previously adopted plans, the GMP Map and the Draft CAMA Future Land Use Map.

Draft CAMA Land Use Plan (2010)

While not formally approved yet, the Draft CAMA Plan represents a long range vision for community growth 20 to 30 years in to the future. Created by staff, professional consultants and community stakeholders, the Draft CAMA Plan is the most comprehensive depiction of future growth for the City and its ETJ.

The Draft CAMA Plan identifies the area as Neighborhood Commercial (NC). Neighborhood Commercial areas are those that provide small areas for office and professional services combined with limited retail uses, designed in scale with surrounding residential uses.

The Draft CAMA Map identifies adjacent and other nearby parcels which front on Gum Branch Road as Neighborhood Commercial. These parcels are intended to develop in a manner that serves the surrounding neighborhoods and are part of an identified Community Commercial Node which are located at the intersections of principal thoroughfares. These nodes are expected to attract moderate density development. Community Commercial nodes are the most desirable location for land uses including: Mixed Use, Moderate Density Residential, Office, Public/ Institutional and Neighborhood Commercial.

Evaluation

As an identified Community Commercial Node in the draft CAMA Plan, it is expected that the area surrounding the Gum Branch Road and Marine Boulevard intersection will attract continued growth and development interest. While growth is expected, it will be imperative that development along the Gum Branch corridor be in scale and character to the nearby, established single family neighborhoods.

Staff believes that the Neighborhood Commercial recommendation of the draft CAMA Plan reflects the most appropriate future land use pattern for the area. The subject parcel, along with the other parcels which front on Gum Branch Road and are located in the same Community Commercial Node, are expected to redevelop in the upcoming years to neighborhood serving, small scale office and business uses.

While a business enterprise in this location differs from the immediately adjacent existing environment, it is not dissimilar from many properties in the general area on Gum Branch Road. Certain mitigation efforts of the proposed development lead to a level of comfort among staff for the rezoning proposal:

- The applicant is proposing to maintain the existing house and retrofit it to create a medical spa. Parking will be located behind the principal structure. Maintaining a residential appearance with these two design features will help the business to blend in with the surrounding neighbors.
- Ingress and egress to the site will occur on Nottingham Road with a relatively low volume of traffic. Trip Generation software estimates eight average daily trips for the proposed use.

- Signage for the business will be small and consist of two signs, a small painted wood sign on the building and a small monument style sign in the front yard on Gum Branch Road.

Further, given the traffic patterns of Gum Branch Road and its continued development, staff expects this area to transition to low scale neighborhood-oriented businesses in the future. Uses such as offices and personal services that are similar to land uses to the East and West of the subject property along Gum Branch Road are expected to transition in this small area.

As the current, adopted guiding policy for future growth for the City and its ETJ, staff considers the most appropriate GME future land use designation to be Neighborhood Commercial. Further, the prevalence of other Office, Public/ Institutional and Neighborhood Commercial designations to the North and South allow for compatible land uses at this node.

Options

Approve the Amendment as requested by the Applicant **(RECOMMENDED)**

- Pros: The amendment request will create a designation that will allow small scale commercial land uses that are in character with both the road network and the surrounding land uses. The proposed change, as designated by the applicant, will be mitigated through the retention of the existing building, limited parking, limited visibility of the parking areas from the roadways and surrounding neighborhood, increased landscaping, and limited signage.
- Cons: The amendment request allows for a moderately significant change in land use. The request does not guarantee that the above mitigation efforts will be fulfilled.

Deny the Amendment Request.

- Pros: Denial of the amendment request would ensure that future land uses in the area would remain consistent and compatible with existing land uses.
- Cons: Denial of the amendment request will not allow the property owner to develop the property in a desired manner.

Defer Consideration of the Amendment Request – (Provide staff with direction on the specific information Council would like to receive).

- Pros: Would allow Staff sufficient time to address any concerns the and/or nearby property owners or applicants may have.
- Cons: None.



Draft Planning Board Minutes – February 14, 2011

Agenda Item:	2
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Growth Management Plan Element Land Use Map Amendment from LDR to NC– 838 Gum Branch Road, Spa Place LLC

Spa Place LLC/Juliana Norris has submitted a request to amend the Growth Management Element Plan pursuant to a rezoning request. The future land use request is to change the Future Land Use (FLU) designation of one parcel consisting of 0.40 acres within the City of Jacksonville limits from Low Density Residential (LDR) to Neighborhood Commercial (NC). The parcel is located at 838 Gum Branch Road, northwest of the Gum Branch Road and Marine Boulevard intersection. Owners within 100 feet of the area proposed for rezoning will be notified via first class mail of the upcoming public hearing. In addition, a courtesy notification was sent out informing these same owners about the Planning Board meeting. Staff has reviewed the request and is recommending approval to amend the Land Use Map from Low Density Residential (LDR) to Neighborhood Commercial (NC).

Questions were asked of what was located next to the subject parcel and what type of business would be going there. Mary explained that there is residence next to the subject parcel that currently has a home occupation and a med spa is proposed to go at this location.

More questions were raised concerning turning a residence into a commercial structure and how that was going to impact the neighborhood. Mary explained that parking would be in the rear of the property and there would be buffering requirements as well.

Mr. Keys asked if Mary could explain the definition of personal services. Mary gave some examples of personal services, such as a lawyer's office, dentist office, surveyor's, architects, smaller volume commercial uses. Mr. Keys asked if it could be assumed that tattoo parlors could go there. Mary stated that yes it would be an allowable use under neighborhood business.

Has the neighborhood been notified and have there been any response? The surrounding property owners within 100 feet have been notified and there has been no phone calls regarding the rezoning or land use amendment. Mr. Spring expressed that there are other locations that used to be residential that are now being used as viable commercial businesses and didn't see a problem with this.

Thomasine Moore moved to approve the request to amend the Land Use Map from Low Density Residential (LDR) to Neighborhood Commercial (NC). Alfred Keyes seconded the motion.

The motion to approve the request to amend the Land Use Map from Low Density Residential (LDR) to Neighborhood Commercial (NC) was approved by the Board Members present. The motion was voted for by Alfred Keyes, Theresa VanderVere, Homer Spring, Thomasine Moore, and Chuck Quinn and against by Vice Chairperson Sandra Wyrick, and Pauline Joos.

Attachment

A

RESOLUTION (2011-)

RESOLUTION IN SUPPORT OF AMENDING THE GROWTH MANAGEMENT PLAN FUTURE LAND USE MAP BY CHANGING THE LOW DENSITY RESIDENTIAL (LDR) FOR PARCEL ID NUMBER 430-98 TO NEIGHBORHOOD COMMERCIAL (NC).

WHEREAS, the Growth Management Plan was approved by City Council on May 8, 2007; and

WHEREAS, the Growth Management Plan is a document that includes goals, policies, and a Future Land Use Map that it will guide the growth of the City over the next 20 years; and

WHEREAS, the Growth Management Plan Future Land Use Map designates parcel 430-98 as LOW DENSITY RESIDENTIAL (LDR); and

WHEREAS, an applicant, on behalf of property owners of parcel ID number 430-98 has submitted a rezoning request identifying commercial uses on a portion of the parcels; and

WHEREAS, the policies of the Growth Management Plan support the intended uses identified by the applicant;

NOW THEREFORE, BE IT RESOLVED that the City Council does hereby amend the Growth Management Plan Future Land Use Map by changing the designation of parcel ID number 430-98 from Low Density Residential (LDR) to Neighborhood Commercial (NC).

Adopted by the Jacksonville City Council the 8th day of March, 2011

Sammy Phillips, Mayor

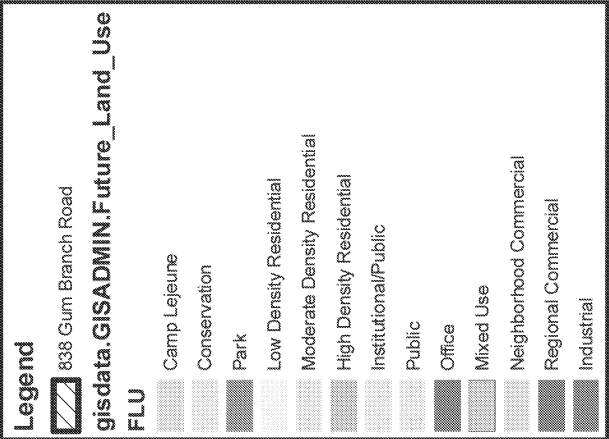
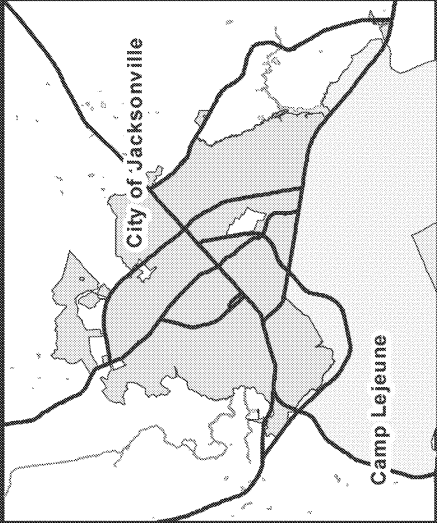
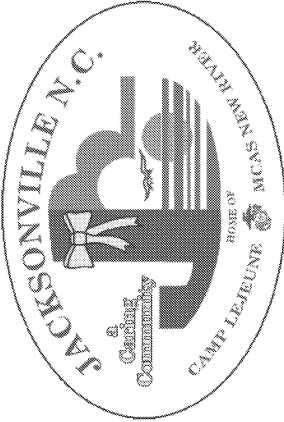
ATTEST:

Carmen K. Miracle, City Clerk

Attachment

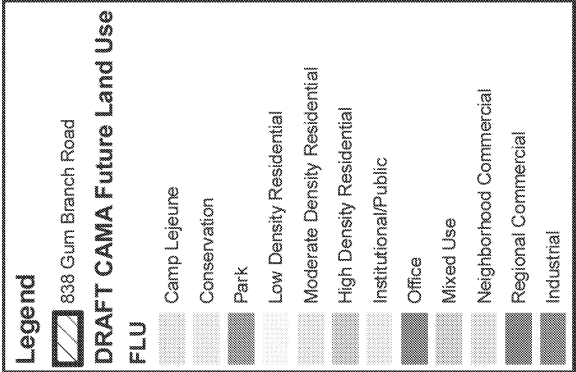
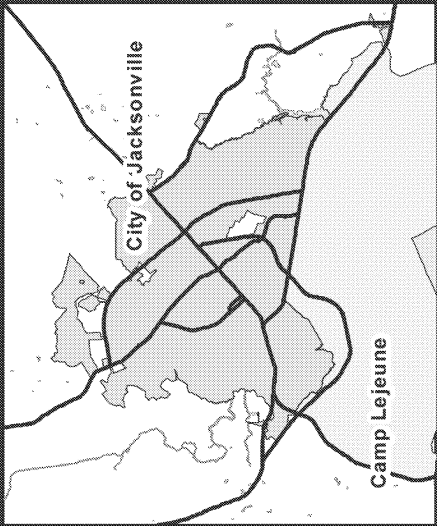
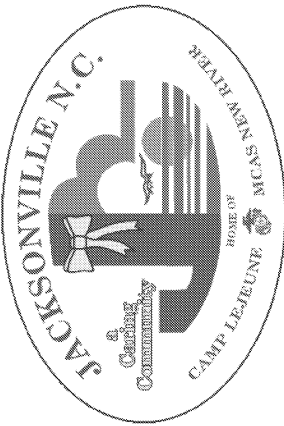
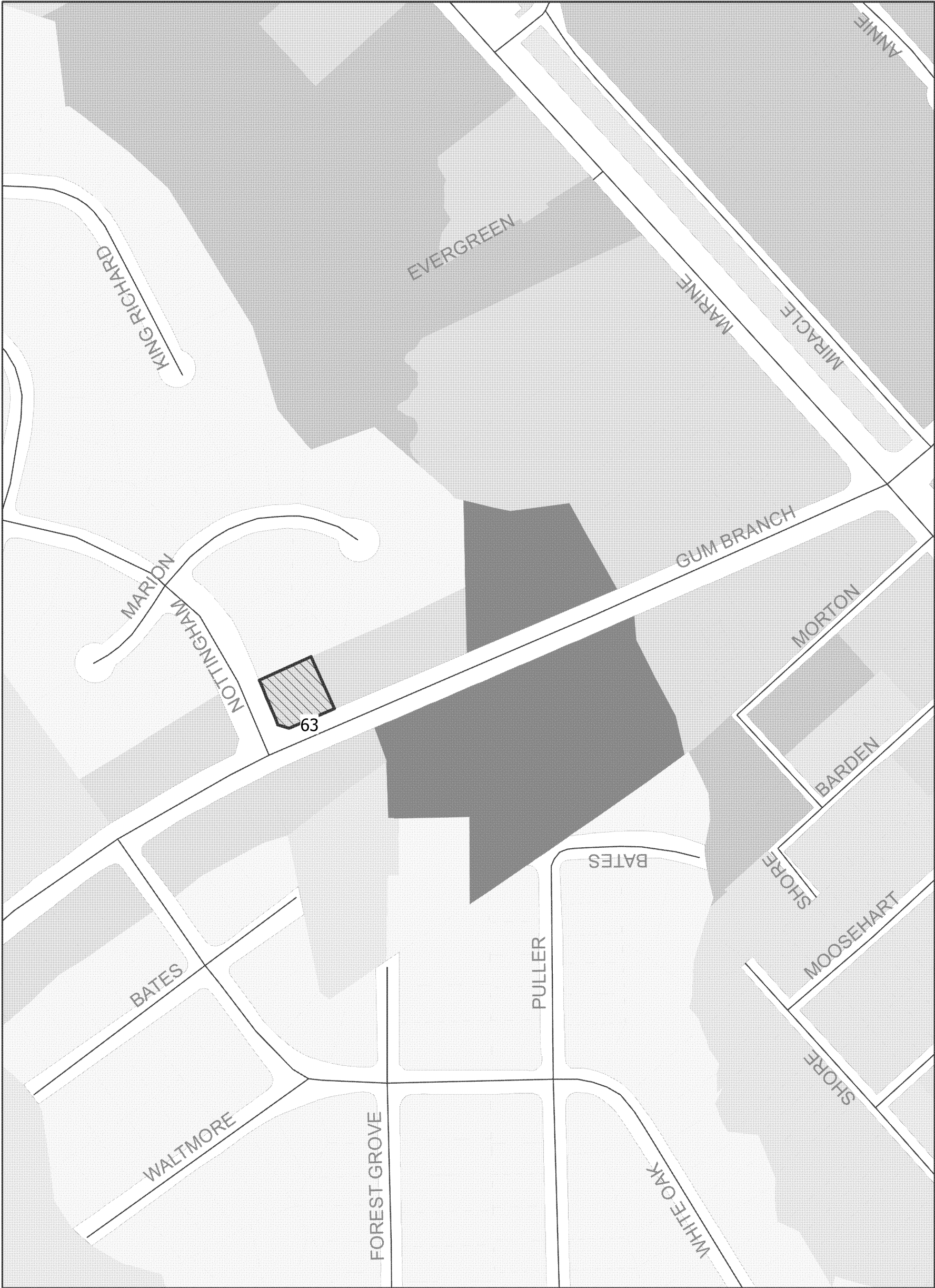
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838 Gum Branch Road FLU Amendment- Existing GME Future Land Use



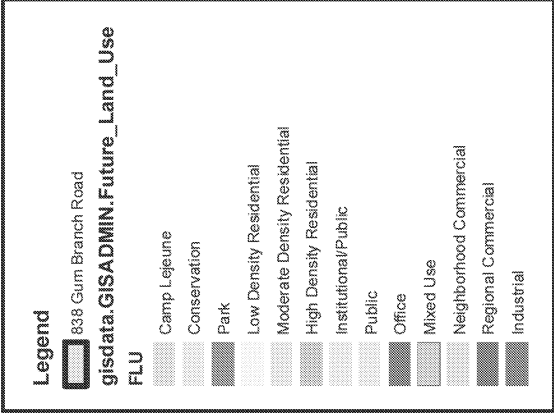
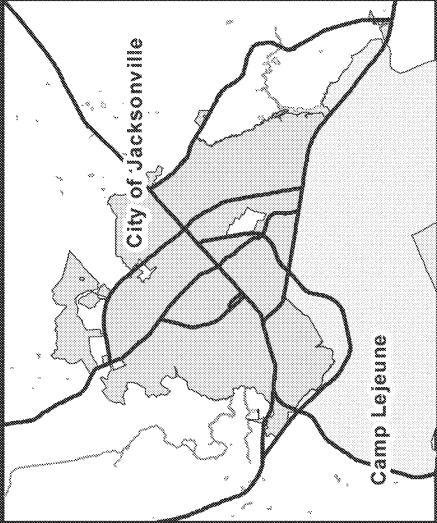
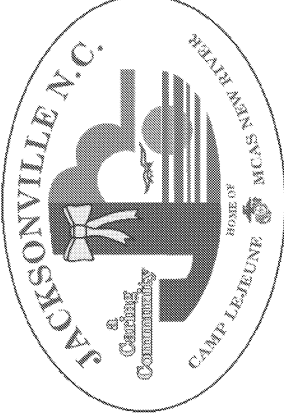
Attachment
C

838 Gum Branch Road FLU Amendment- DRAFT CAMA Future Land Use



Attachment
D

838 Gum Branch Road FLU Amendment- Proposed GME Future Land Use



Attachment

E



Request for City Council Action

Agenda Item:	3
Date:	3/8/2011

Subject: Public Hearing (*Legislative*) - Rezoning from R-7 to CU-NB – 838 Gum Branch Road, Spa Place LLC

Department: Planning & Development Services

Presented by: Mary Sertell, Senior Planner

Presentation: Yes

Issue Statement

Spa Place LLC/ Juliana Norris has submitted a request to rezone one parcel totaling 0.40 acres from Residential 7 (R-7) to Conditional Use Neighborhood Business (CU-NB). This site is located at the corner of Gum Branch Road and Nottingham Road within city limits.

Financial Impact

None

Action Needed

Conduct Public Hearing

Consideration of the Proposed Rezoning

Recommendation

Staff and Planning Board recommend Council move to approve the rezoning request based on Findings of Facts A, C, and D being found in the affirmative and that the rezoning advances the public interest. If the GME Plan's Future Land Use Map is approved B will be in the affirmative as well.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Rezoning Worksheet
- B Proposed Ordinance
- C Draft Planning Board Minutes – February 14, 2011
- D Section 31, R-7 of the Zoning Ordinance
- E Section 64, NB of the Zoning Ordinance
- F Existing Zoning Map
- G Site Survey
- H Proposed Zoning Map



Staff Report

Rezoning from R-7 to CU-NB – 838 Gum Branch Road, Spa Place LLC

Introduction

Spa Place LLC/ Juliana Norris has submitted a request to rezone one parcel totaling 0.40 acres from Residential 7 (R-7) to Conditional Use Neighborhood Business (CU-NB). This site is located at the corner of Gum Branch Road and Nottingham Road within City limits.

Procedural History

- On January 10, 2011 the applicant submitted a rezoning request to rezone the property to NB.
- On February 14, 2011 the Planning Board made a recommendation to rezone the property to CU-NB.
- On March 8, 2011 City Council will conduct a Public Hearing and consider the rezoning request.

Stakeholders

- Spa Place LLC/ Juliana Norris - property owner and business proprietor owner who submitted the zoning request.
- Surrounding property owners - In accordance with General Statutes, property owners within 100 feet of the area proposed for rezoning have been notified via first class mail. In addition, a courtesy notification was sent out informing these same owners about the Planning Board meeting.

Zoning Assessment

The parcel proposed for rezoning is located at 838 Gum Branch Road, on the southeast corner of Gum Branch Road and Nottingham Road, just north of the Gum Branch and Marine Boulevard intersection. The property is bordered to the North, East and South by single family houses zoned R-7, and to the West by single family houses zoned RM-6.

The Residential 7 zoning district is intended for residential use and to prohibit any business other than home occupation. The Neighborhood Business zoning district is intended to allow for businesses oriented to serve adjoining residential areas with their needs and not adversely affect neighborhoods. Vehicular access is limited to side streets in this district.

Merits of Rezoning

In determining the merits of the rezoning request the City Council should consider the following: 1) is the proposal consistent with an adopted land use plan, 2) does the rezoning advance the public interest, and 3) is the rezoning reasonable.

The following criteria must be applied to the proposal in determining the reasonableness of the rezoning:

- *The size of the tract- The larger the area proposed for rezoning the more likely it is to be reasonable. An individual lot that is within a large zoning district is more suspect than creating a new zoning district involving multiple parcels and owners.*

The area proposed for rezoning includes one parcel totaling 0.40 acres. The proposed rezoning area is adjacent to similarly sized parcel sizes. Other parcels in the area, which have office and institutional uses, have parcels ranging in size from approximately one and a half acres to six and a half acres.

- *Compatibility with an existing comprehensive plan- An action that is inconsistent with the plan may indicate special treatment that is contrary to the public interest.*

The adopted CAMA Plan from 1999 identifies the area's land classification as "Developed." Areas that are identified as "developed" are urban in character with no or minimal undeveloped land remaining. "Developed" land accommodates a variety of uses from residential, commercial, industrial and other land uses at high or moderate densities in excess of 3 units per acre.

The Growth Management Element (2007) recommends a Low Density Residential (LDR) designation. Low Density Residential designations are intended for detached residential development with home occupations, schools, churches and other non-profit organizations.

However, the Draft CAMA Plan (2010) identifies the parcel as Neighborhood Commercial (NC). Neighborhood Commercial is intended to provide small areas for office and professional services combined with limited retail uses, designed in scale with surrounding residential uses. The CAMA Plan (2010) identifies the existing single family homes which front on Gum Branch Road as NC as well.

Staff has reviewed the current (1999) and Draft CAMA Land Use Plan Update (2010) as well as the Growth Management Plan (2007) and has determined that approving the rezoning request and amending the Growth Management Plan, will not provide special treatment that is contrary to the public interest. The request would allow for uses that will be compatible with current growth and development patterns on Gum Branch Road.

- *The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community- An action that is of great benefit to the owner and*

only a mild inconvenience for the neighbors may be reasonable, while a zoning decision that significantly harms the neighbors while only modestly benefiting the owner would be unreasonable.

The subject parcel is bordered to North, East and South by detached single family homes, zoned R-7. While a business enterprise in this location differs from the immediately adjacent existing environment, it is not dissimilar from many properties in the general area on Gum Branch Road. Certain mitigation efforts of the proposed development lead to a level of comfort among staff for the rezoning proposal:

- The applicant is proposing to maintain the existing house and retrofit it to create a medical spa and parking will be located behind the principal structure. Maintaining a residential appearance with these two design features will help the business to blend in with the surrounding neighbors.
- Ingress and egress to the site will occur on Nottingham Road with a relatively low volume of traffic. Trip Generation software estimates eight average daily trips for the proposed use.
- Signage for the business will be small and consist of two signs, a small painted wood sign on the building and a small monument style sign in the front yard setback on Gum Branch Road.
- The applicant has amended her rezoning request to allow uses permitted to the Neighborhood Business zoning district except alcoholic beverage package sales, convenient food stores and tattoo parlors.

Further, given the traffic patterns of Gum Branch Road and its continued development, staff expects this area to transition to low scale neighborhood-oriented businesses in the future. Uses such as offices and personal services that are similar to land uses to the East and West along Gum Branch Road are expected to transition in this small area.

Given the above considerations, Staff believes the rezoning request to be reasonable.

- *The relationship between the newly allowed uses and the previously allowed uses- The greater the difference in allowed use, the more likely the rezoning will be found unreasonable.*

Section 31 (R-7), Section 64 (NB) of the Zoning Ordinance can be found in Attachments D and E.

The NB zoning district is more intense than the R-7 district; however, the NB district is the least intensive commercial zoning district in Jacksonville and intended to serve neighborhoods with small scale commercial enterprises. Further the applicant has

placed additional conditions on the rezoning request to exclude certain uses: alcoholic beverage package sales, convenient food stores and tattoo parlors.

Options

Approve the Rezoning as requested by the Applicant (**RECOMMENDED**).

- Pros: The rezoning request will create a designation that will allow small scale commercial land uses that are in character with both the road network and the surrounding land uses. The proposed change, as designated by the applicant, will be mitigated through the retention of the existing building, limited parking, limited visibility of the parking areas from the roadways and surrounding neighborhood, increased landscaping, and limited signage.
- Cons: The rezoning request allows for a moderately significant change in land use. The request does not guarantee that the above mitigation efforts will be effective.

Deny the Rezoning Request.

- Pros: Denial of the rezoning request would ensure that zoning in the area would remain consistent and compatible with existing land uses.
- Cons: Denial of the rezoning request will not allow the property owner to develop the property in a desired manner.

Defer Consideration of the Rezoning Request – Provide staff with direction on the specific information the Council would like to receive.

- Pros: Would allow the property owner, staff and the residents to try and work out any concerns raised, if any.
- Cons: None.

*Any rezoning application, other than those initiated by Council or City Staff, which is denied by City Council may not be resubmitted within 12 months of the City Council decision unless the application is determined to be substantially changed under the procedures set forth in Section 136 of the City of Jacksonville Zoning Ordinance.

Public Hearing Notification

In accordance with the North Carolina General Statutes, all property owners within 100 feet of the subject parcels will be notified of the proposed rezoning. In addition, Public Hearing Notifications will be posted in the Jacksonville Daily News advertising the public hearing of the rezoning. A courtesy notification was sent out informing these same owners about the Planning Board meeting.

Legal Descriptions of Proposed Rezoning Boundaries

Spa Place, LLC (Juliana Norris)

0.40 acre parcel

Jacksonville Township, Onslow County

Being all of Lot 8, Block B, Sherwood Forest, Section I, as shown on a map recorded in Map Book 9, Page 56, Onslow County Registry; more particularly described as follows: Beginning at the northeasternmost corner of Lot 8, Block B, Section I, Sherwood Forest Subdivision, as shown on a map recorded in Map Book 9, Block 56, of the Onslow County Registry; thence from the above described point of beginning South 16 degrees 19 minutes East 144.26 feet to an iron stake; thence South 73 degrees 41 minutes West 139.23 feet to an iron stake in the eastern new right of way of Gum Branch Road (NCCR 1308); thence with said new right of way North 16 degrees 19 minutes West 124.26 feet to a concrete right of way monument in the southern right of way Nottingham Drive; thence with said right of way North 72 degrees 03 minutes East 124.02 feet to the point and place of beginning, being all of Lot 8, Block b, Section I, Sherwood Forest, except for that portion conveyed to the North Carolina Department of Transportation along Gum Branch Road (NCSR 1308).

Subject to Restrictive Covenants recorded in Book 350, Page 160, Onslow Count Registry.

WORKSHEET FOR REZONING REQUESTS

Applicant: Spa Place, LLC

Property Location: 838 Gum Branch Road

Tax Map and Parcel ID: 430-98

Existing zoning designation: Residential 7 (R-7)

Proposed zoning designation: Conditional Use Neighborhood Business (CU-NB)

Proposed Conditions: All uses permitted in the Neighborhood Business zoning district except alcoholic beverage package sales, convenient food stores and tattoo parlors.

REASONABLENESS FINDINGS OF FACT:

A. Size of the tract- The overall size of the tract of land proposed for rezoning is reasonable when compared to the size of the zoning district in which the subject property is located.	Yes	No
B. Compatibility with a comprehensive plan- The proposed rezoning is consistent with any comprehensive plan, small area plan or elements thereof.	Yes	No
C. Impact- The impact to the adjacent property owners and the surrounding community is reasonable, and the benefits of the rezoning outweigh any potential inconvenience or harm to the community.	Yes	No
D. Comparison of uses- The allowed uses within the proposed zoning district are similar or comparable to uses permitted as currently zoned.	Yes	No

GRANTING THE REZONING REQUEST

Motion to grant the rezoning upon finding that the rezoning is reasonable considering one or more of the above findings of fact A-D being found in the affirmative and that the rezoning advances the public interest.

DENYING THE REZONING REQUEST

Motion to deny the rezoning upon finding that the proposed rezoning does not advance the public interest and is unreasonable due to the following:

- ☐ A. The size of the tract
- ☐ B. Incompatibility with the comprehensive plan
- ☐ C. Impact to surrounding community and immediate neighbors
- ☐ D. Proposed uses are dissimilar to those currently permitted

Attachment

A

ORDINANCE (2011-)

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP

BE IT ORDAINED by the City Council of the City of Jacksonville, North Carolina, that the Official Zoning Map for the City of Jacksonville and its Extraterritorial Jurisdiction, an element of the City of Jacksonville Zoning Ordinance, is hereby amended to reflect the rezoning of the subject parcel to Conditional Use Neighborhood Business (CU-NB) as shown on the below map (Tax map and parcel id #430-98) and as described in the attached legal description. Conditions include:

1) Allowing all uses permitted in the Neighborhood Business zoning district except alcoholic beverage package sales, convenient food stores and tattoo parlors.



This ordinance shall be in full force and effective upon its adoption.

Adopted by the Jacksonville City Council in regular session on this 8^h day of March 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk

Attachment

B



Draft Planning Board Minutes – February 14, 2011

Agenda Item:	3
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Rezoning from R-7 to CU-NB – 838 Gum Branch Road, Spa Place LLC

Spa Place LLC/Juliana Norris has submitted a request to rezone one parcel totaling 0.40 acres from Residential 7 (R-7) to Neighborhood Business (NB). This site is located at the corner of Gum Branch Road and Nottingham Road within city limits. In accordance with General Statutes, property owners within 100 feet of the area proposed for rezoning will be notified via first class mail. In addition, a courtesy notification was sent out informing these same owners about the Planning Board meeting. Staff has reviewed the rezoning request and is recommending approval of the proposed rezoning.

Ms. VanderVere asked how many clients would be seen at one time. The applicant, Juliana Norris came up and stated that there would be no more than four to six clients at one time.

Mr. Quinn had some concerns regarding the traffic coming in and out of this location. Mr. King stated that at the site plan review, the TRC will have the opportunity to review the plans and at that time those issues will be addressed.

Ms. Wyrick asked if it was stated earlier that tattoo parlors are allowed. Mr. King said yes. Mr. Spring expressed that there were other locations that were being used as neighborhood businesses along Gum Branch and his concern is that if in the future this business closed that an undesired business could occupy and he would rather see this be rezoned as conditional use neighborhood business. Ms. Norris stated that she would like to change her application to conditional use and allow the board to determine what uses would be allowed. Mr. Quinn stated that he would like to move forward with this rezone as conditional use and go through each use to include or exclude. Ms. Joos stated that she was concerned that an alcohol packaged sales could go there with a school being right across the road. Mary explained that the applicant would have to amend her application to conditional use and choose certain uses or she could limit it to just a medical spa.

Mr. Spring asked if the applicant would agree to a conditional use to exclude alcoholic beverage packaged sales, convenience food stores including gasoline sales and tattoo parlors. Ms. Norris stated that she could but wanted to ask if she could give her clients mimosas as long as she is not selling them, would she be violating anything. Several answered that they didn't think she would be. Ms. Norris stated that she is in agreement with the conditions.

Homer Spring moved to approve the rezoning to conditional use neighborhood business not allowing alcoholic beverage package sales, convenient food stores and tattoo parlors. Pauline Joos seconded the motion.

Attachment

C

The motion to approve the rezoning to conditional use neighborhood business not allowing alcoholic beverage package sales, convenient food stores and tattoo parlors was unanimously approved by the Board Members present.

Section 31. Residential 7 (R-7) Zone

(Amended 9/18/90)

The R-7 Zone is primarily intended for residential use. The intention of this zone is to prohibit any business other than home occupation. Schools, churches and institutions of like nature are a permitted use because it is felt that they would not be detrimental to the residential atmosphere.

A. Area requirements.

1. **Building site area required, residences.** The minimum building site area shall be 1 lot or parcel of land 7,000 square feet in area. Such parcel of land shall have an average width of at least 70 feet.

When a lot or parcel of land has an area of less than the above required minimum area and width and was of record April 8, 1952, such lot may be occupied by 1 family, provided, however, that the minimum setback requirements set out in this section are observed.

2. **Right-of-way setback.** No primary or accessory structure shall be placed within 35 feet of any right-of-way of any public or private street.
3. **Setbacks, Side and Rear**
 - a. **Interior Lots.** Each side of the primary structure of an interior lot shall have a side yard not less than 10 feet wide. No primary structure shall be built within 15 feet of the rear property line. No accessory building shall be built or placed within 5 feet of the rear or side property line. *Amended 11/18/03*
 - b. **Corner Lots.** The designed front of the primary structure of a corner lot shall comply with right-of-way setback standards of this chapter. The designated side adjacent to a road right-of-way shall be set back no less than 15 feet from the property line. All other sides shall be set back no less than 10 feet from the property line. The designated rear setbacks shall be no less than 15 feet from the property line. No accessory building may be placed or built within 5 feet of rear or side of the property lines.

(Amended 1/7/97)

Attachment

D

Section 31. Residential 7 (R-7) Zone

Zone	Designated	Designate	Side	Rear
	Front Setback	d Side (R\W) Setback	Setback	Setback
R-7	35'-0"	15'-0"	10'-0"	15'-0"

- c. **Double Frontage Lots.** Each side of the primary structure of a double frontage lot that fronts either an approved public or private street shall comply with right-of-way setback standards of this chapter. All other side yards shall be set back no less than 10 feet from the property line. Accessory buildings may be built or placed within 5 feet of the side property lines. *(Amended 1/7/97)*

Zone	Designated Front Setback	Designate d Side (R\W) Setback	Side Setback	Rear Setback
R-7	15'-0"	15'-0"	10'-0"	20'-0"

B. Permitted Uses:

Churches
Community Docking Facility (Minor) *(Amended 6/5/07)*
Day care centers, nurseries
Dwellings, single
Family Care Homes *(Amended 7/17/07)*
Family Childcare Home *(Amended 3/16/04)*
Golf courses
Governmental uses and operations such as fire stations, maintenance or operation facilities and similar governmental facilities *(Amended 4/20/10)*
Home occupations *(Amended 3/16/04)*
Library, public
Parks, playgrounds, public & private
Schools, public
Telecommunications Antenna, Collocation on Existing Tower *(Amended 10/6/09)*
Telecommunications Antenna, Placement on Existing Building *(Amended 10/6/09)*
Telecommunications Tower, Stealth *(Amended 10/6/09)*
Utility, Minor *(Amended 4/20/10)*

Section 31. Residential 7 (R-7) Zone

C. Special Uses

Clubs, lodges, other civic organizations, operation on a non-profit basis
Community Docking Facility (Major) *(Amended 6/5/07)*
Schools, private, with same curriculum as public schools
Telecommunications Tower, Freestanding *(Amended 10/6/09)*
Temporary convalescent housing
Temporary real estate/construction offices
Temporary refreshment stands

Section 64. Neighborhood Business (NB) Zone.

Intent: This business zone is established primarily to serve those people living in the immediate area. The size and types of the businesses in this zone are restricted so as to alleviate major traffic and congestion in this area. It is the intent of this zone to restrict vehicular access to side streets and prohibit access to major and minor thoroughfares. It does allow numerous businesses oriented to serve adjoining residential areas with their needs and not adversely affect neighborhoods. Adequate parking areas are required. *(Amended 1/7/03)*

A. Area Regulations.

1. Buildings erected in the Neighborhood Business Zone for single dwelling purposes exclusively shall comply with the front and side yard requirements of the RM-5 Residential Multi-Family Zone. *(Amended 2/3/98)*

All lots shall comply with the applicable Areas of Environmental Concern (AEC) Standards, as amended, in accordance with the State Guidelines for AECs (15 NCAC 7H) pursuant to the Coastal Area Management Act of 1974.

(Amended 10/2/79)

2. Where a building is erected for mixed uses, namely, for both dwelling and business purposes, each story of such building used in any part for dwelling purposes shall, if more than 2 rooms in depth, be provided with 2 side yards, 1 on each side of the building, neither of which shall be less than 6 feet in width; provided, however, that this regulation shall not apply to the street side of a corner lot.
3. Where a lot abuts upon the side of a lot zoned residential there shall be a side yard of not less than 6 feet in width.
4. Any use or combination of uses (listed below), which involves a building or combination of buildings that equals 10,000 square feet but does not exceed 25,000 square feet on any lot or combination of lots under single ownership, use or management shall require a special use permit. *(Amended 1/7/03)*
5. Right-of-way Setback. Buildings shall be set back at least 50 feet from the right-of-way of all major or minor thoroughfares, as depicted on the amended City of Jacksonville Thoroughfare Plan. When fronting on any other private or public roads, buildings shall be set back at least 25 feet

from the right-of-way. An existing building that intrudes into the required setback may expand, but no additional construction shall be placed in the required setback. *(Amended 7/*

Attachment

E

Section 64. Neighborhood Business (NB) Zone

B. Driveway Limitations

1. Two driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 50 feet.
2. Three driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds 150 feet.
3. Four or more driveways entering the same street from a single lot shall be prohibited.
4. In no case may the total width of all driveways exceed 50% of the total property frontage.
5. No driveway (nearest edge) shall be located within 10 feet of a side lot property line except in the case of a shared driveway (single curb cut/access point) utilized by two or more lots.
6. No driveway (nearest edge) shall be located within 50 feet of an intersection except in the case where no other lot access to a public street or City approved private road is available. *(Amended 9/8/87)*

C. Permitted Uses:

(Amended 1/7/03)

- Accessory uses
- Alcoholic beverages, package sales
- Apartments
- Art galleries
- Bakery, retail
- Churches
- Clinics
- Convenience food store, including gasoline sales (not to exceed 4 fueling positions)
- Day care centers and nurseries
- Dry cleaning and laundry facilities
- Dwellings, multiple
- Dwellings, single
- Family Childcare Homes *(Amended 3/16/04)*
- Florist
- Funeral homes and mortuaries
- Greenhouses or horticultural gardens, commercial
- Greenhouses or horticultural gardens, non-commercial
- Home occupations

Section 64. Neighborhood Business (NB) Zone

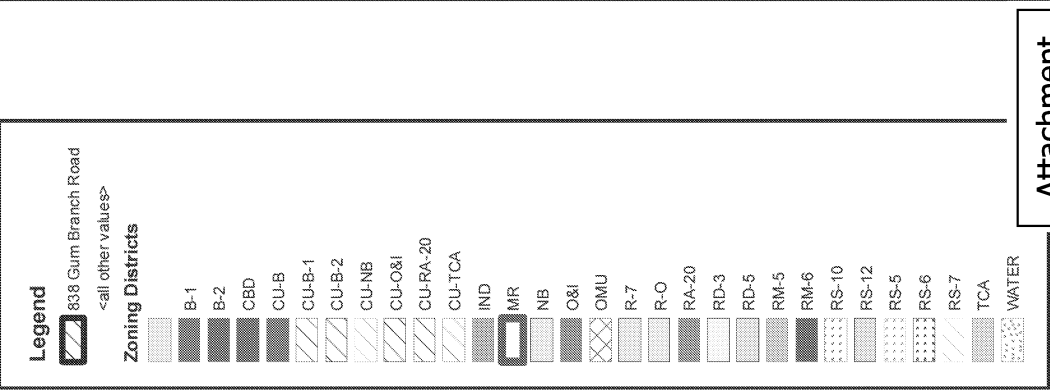
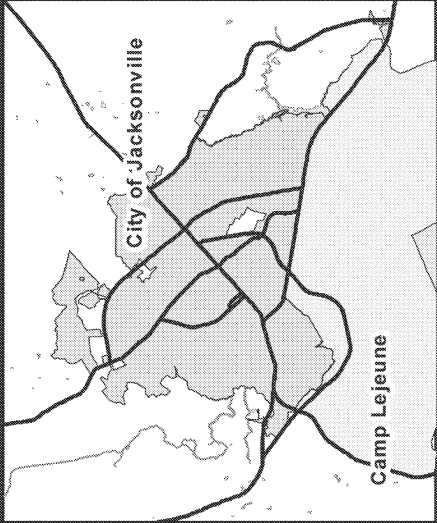
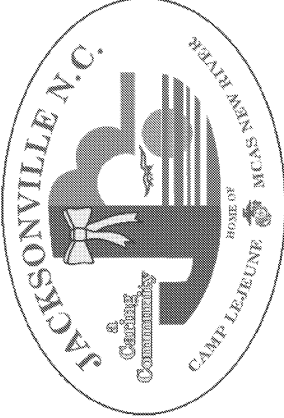
Library, public and/or private
Museums, public and/or private
Offices - business, professional and public
Parking garages, private
Parking lot, private
Parking lot, public
Parks and playgrounds, public and/or private
Pet shops
Pets, not objectionable because of odor, noise, or health hazard
Pharmacy (drive-thru not permitted)
Photographic studios and camera supply
Recreation centers
Rest homes/nursing homes
Restaurants (drive-thru not permitted)
Retail sales
Service shops, such as beauty, barber, shoe repair, and electronic repair
Tailor, dressmaking and millinery shops
Telecommunications Antenna, Collocation on Existing Tower *(Amended 10/6/09)*
Telecommunications Antenna, Placement on Existing Building *(Amended 10/6/09)*
Telecommunications Tower, Stealth *(Amended 10/6/09)*
Utility, Minor *(Amended 4/20/10)*
Vegetable gardens, non-commercial

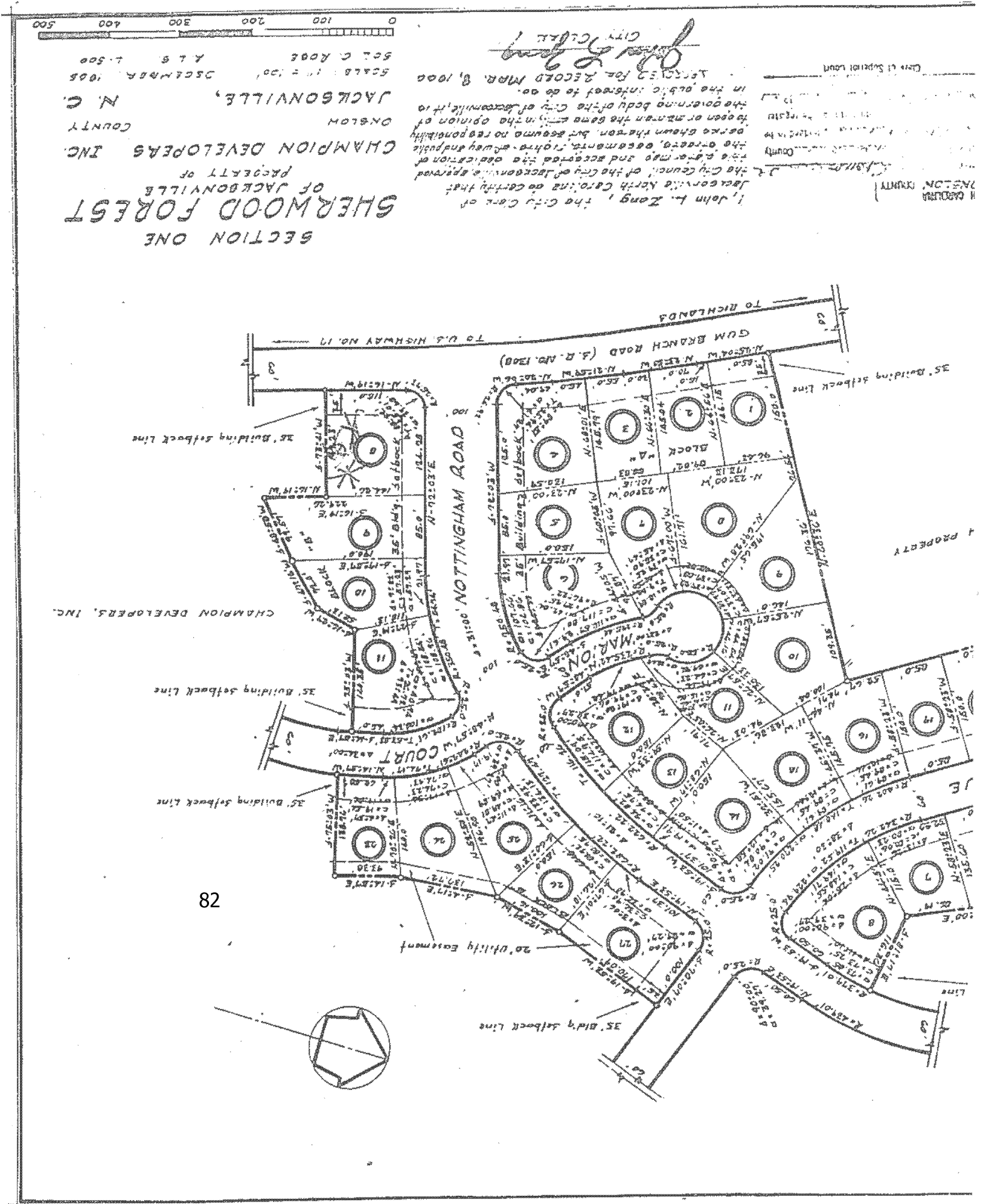
D. Special Uses

(Amended 1/7/03)

Animal Hospitals
Any use or combination of uses, which involves a building or combination of buildings that equals 10,000 square feet but does not exceed 25,000 square feet on any lot or combination of lots under single ownership, use or management shall require a special use permit
Banks
Clubs, lodges, and other civic organizations, operating on a non-profit basis
Nightclubs/dance halls/discotheques
Public/Private storage service yards, fire stations, maintenance and operations facilities, and similar governmental facilities
Taverns/bars
Telecommunications Tower, Freestanding *(Amended 10/6/09)*

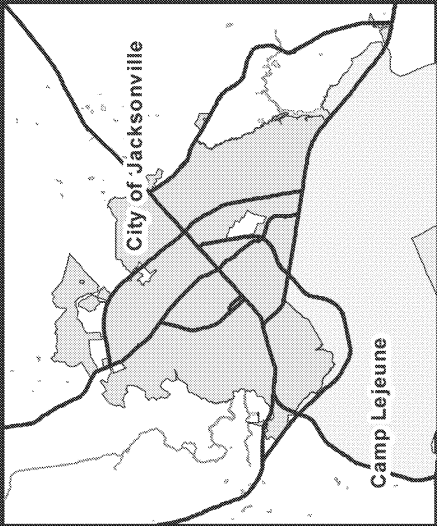
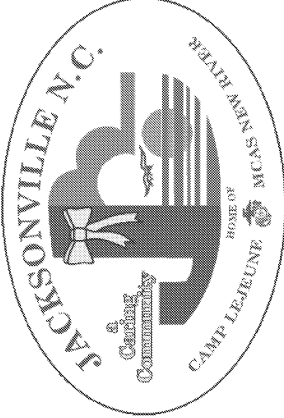
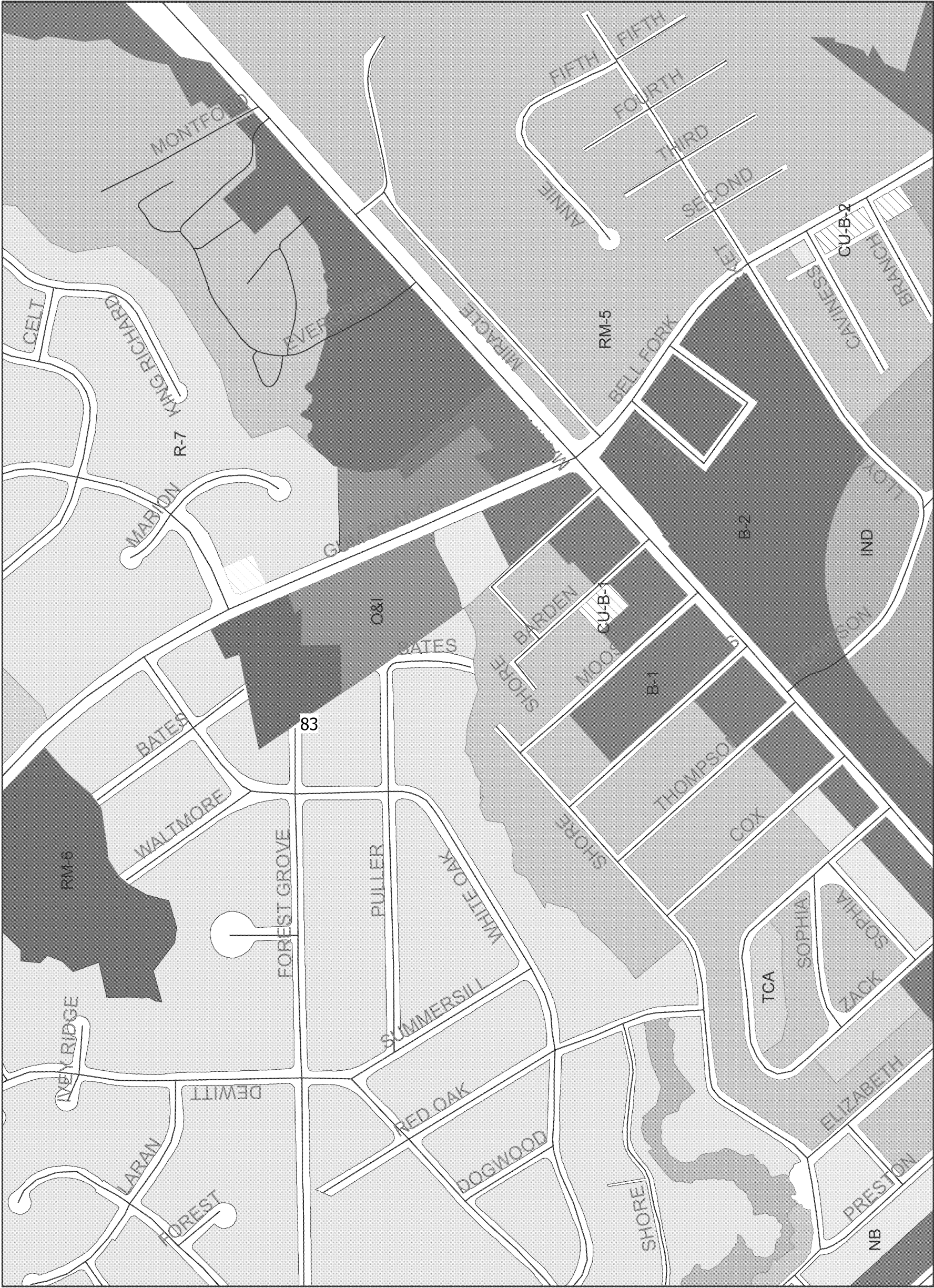
838 Gum Branch Road Rezoning- Existing Zoning





65GP
9KB

838 Gum Branch Road Rezoning- Proposed Zoning



Legend

838 Gum Branch Road
<all other values>

Zoning Districts

B-1	B-2	CBD	CU-B	CU-B-1	CU-B-2	CU-NB	CU-O&I	CU-RA-20	CU-TCA	IND	MR	NB	O&I	OMU	R-7	R-O	RA-20	RD-3	RD-5	RM-5	RM-6	RS-10	RS-12	RS-5	RS-6	RS-7	TCA	WATER
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Request for City Council Action

Agenda

Item:

4

Date: 3/8/2011

Subject: Public Hearing (*Legislative*) – Zoning Text Amendment – Arcades – Dave Neumann

Department: Development Services

Presented by: Jeremy B. Smith, Senior Planner

Presentation: Yes

Issue Statement

Mr. Dave Neumann is requesting modifications to the City's Zoning Ordinance in order to establish "Arcade" as a permitted use. These changes will create a unique type of recreational/entertainment use for citizens of all ages, as well as visitors to the Jacksonville area.

Staff utilized the draft Unified Development Ordinance which includes this permitted use while preparing this text amendment.

Financial Impact

None

Action Needed

Conduct Public Hearing

Consideration of the Zoning Text Amendment

Recommendation

Planning Board and City staff recommend Council move to approve the Zoning Text Amendment.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Proposed Zoning Text Amendment Ordinance
- B February 14, 2011 Planning Board Meeting Minutes



Staff Report

Agenda Item:	4
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Public Hearing (*Legislative*) – Zoning Text Amendment – Arcades – Dave Neumann

Introduction

Mr. Dave Neumann is requesting modifications to the City's Zoning Ordinance in order to establish "Arcade" as a permitted use. These changes will create a unique type of recreational/entertainment use for citizens of all ages, as well as visitors to the Jacksonville area. Staff utilized the draft Unified Development Ordinance which includes this permitted use while preparing this text amendment.

Procedural History

- On December 28, 2010 Mr. Dave Neumann submitted an application requesting the proposed text amendment.
- On February 14, 2011 the Planning Board recommended approval of the proposed zoning text amendment.
- On March 8, 2011 City Council will conduct a Public Hearing and consider this zoning text amendment.

Stakeholders

- Dave Neuman – Applicant who requested the proposed Zoning Text Amendment. Applicant believes these changes will be beneficial to Jacksonville patrons, as well as the military and their visiting families.
- Citizens of Jacksonville – Will provide another type of recreational/entertainment use.
- City staff – In order to ensure that an arcade is not being used as a sweepstakes venue, staff has added a separate definition for this type of land use.

Public Hearing Notification Assessment

"Before adopting, amending, or repealing any ordinance authorized by this Article, the City Council shall hold a Public Hearing. A notice of the public hearing has been given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing." Notifications in accordance with North Carolina General Statutes will be followed.

Options:

- 1). Approve the Zoning Text Amendment as proposed. **(RECOMMENDED)**
 - Pros: Will create a recreational/entertainment use type for citizens of all ages to enjoy. The use of Arcade is an identified use in the proposed Unified Development Ordinance. The proposed Text Amendment provides a full definition for Arcade and similar uses.
 - Cons: None
- 2). Defer action on the zoning text amendment.
 - Pros: Would allow staff time to acquire additional background information as requested by City Council.
 - Cons: None
- 3). Deny the Zoning Text Amendment
 - Pros: None
 - Cons: The use of Arcade as an identified use is within the draft Unified Development Ordinance. The proposed text amendment provides a full definition for Arcade and similar uses.

ORDINANCE (# 2011-)

AN ORDINANCE AMENDING THE CITY OF JACKSONVILLE ZONING ORDINANCE

BE IT ORDAINED by the Jacksonville City Council that Sections 10 Definitions, 73 Business-1 Zone, 76 Business-2 Zone, and 85 Industrial Zone of the City of Jacksonville Zoning Ordinance be amended as follows: ~~Strikethrough~~ indicates the proposed deletion of text while underlining indicates a proposed addition to the text.

Section 10, Definitions:

Arcade: A use, whether principal or an accessory, conducted solely indoors, where person(s) of any age group can utilize electronic machines or devices, including but not limited to computers or terminals, and gaming consoles, to conduct or participate in electronic/video gaming; where cash, merchandise or other items of value are **NOT** redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term does not include, but is not limited, to internet cafes, internet sweepstakes, beach sweepstakes or cybercafés or any others as defined by North Carolina General Statutes. This does not include any lottery approved by the State of North Carolina.

Arcade, adult: A use, whether principal or an accessory, conducted solely indoors, where person(s) that are required by management to be 18 years or older, utilize electronic machines or devices, including but not limited to computers or terminals, and gaming consoles, to conduct or participate in electronic/video gaming; where cash, merchandise or other items of value are **NOT** redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term does not include, but is not limited to internet cafes, internet sweepstakes, beach sweepstakes, cybercafés, or any others as defined by North Carolina General Statutes. This does not include any lottery approved by the State of North Carolina. In addition, if a substantial or significant portion (over twenty five percent of total gaming space) of its stock in trade, and offers for rent or sale, for any consideration, one or more of the following: 1) books, magazines, periodicals, other printed matter, photographs, films, motion pictures, video cassettes, CD-ROM, computer software, slides, other visual representations, or related merchandise that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities (as defined) or specified anatomical areas (as defined) is considered Adult Establishment and shall follow the standards found in Section 107.

Adult Establishment.

1. Any business, club, or other establishment which permits any employee, member, patron or any person on its premises for any form of consideration, to exhibit any specified anatomical areas (as defined) before any other person(s).
2. Any business, club, or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by

Attachment

A

an emphasis on material depicting, describing or exhibiting specified anatomical areas (as defined) or relating to specified sexual activities (as defined) is permitted on its premises for any form of consideration.

Adult establishments shall include, but are not limited to adult arcades, adult taverns/bars, adult theaters, adult nightclubs/dance halls/discotheques, sadomasochism centers, adult bookstores, adult retail establishments, and adult motion picture theaters, as defined by this ordinance.

Sweepstakes Gaming: A use, whether principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, and gaming consoles to conduct games of chance, where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, beach sweepstakes, cybercafés or any others as defined by North Carolina General Statutes. This does not include any lottery approved by the State of North Carolina.

Section 73 Business 1 (B-1) Zone

Part E Permitted Uses

Arcade

Part F Special Uses

Arcade, adult

Section 76 Business 2 (B-2) Zone

Part E Permitted Uses

Arcade

Part F Special Uses

Arcade, adult

Section 85 Industrial (I) Zone

Part F Permitted uses

Arcade

Arcade, adult

BE IT FURTHER ORDAINED by the City Council of the City of Jacksonville that the Zoning Ordinance may be appropriately reorganized and/or renumbered in the order to set the provisions of this text change in a logical and orderly fashion. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be in full force and effective upon its adoption.

Adopted by the Jacksonville City Council in regular session on this 8th day of March 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk



Planning Board Minutes – February 14, 2011

Agenda Item:	4
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Public Hearing (*Legislative*) – Zoning Text Amendment – Arcades – Dave Neumann

Mr. Dave Neumann is requesting modifications to the City's Zoning Ordinance in order to establish "Arcade" as a permitted use. These changes will create a unique type of recreational/entertainment use for citizens of all ages, as well as visitors to the Jacksonville area.

Staff recommends the approval of the zoning text amendment as presented.

There was a question asked of what an adult arcade is. Mr. Smith and Mr. King explained. Mr. Quinn wanted to make sure that the sweepstakes definition was just to define what it is so it would be clear that they are not allowed in the arcades. Mr. King said yes.

Homer Spring moved to approve zoning text amendment as presented. Theresa VanderVere seconded the motion.

The motion to approve zoning text amendment as presented was unanimously approved by the Board Members present with Pauline Joos abstaining from the vote.

Attachment

B



Request for City Council Action

Agenda Item:	5
Date:	3/8/2011

Subject: Public Hearing (*Legislative*) – Zoning Text Amendment – Amendments to Section 19 Residential Zones – General Provisions

Department: Development Services

Presented by: Ryan King, Planning Administrator

Presentation: Yes

Issue Statement

Staff has drafted a Zoning Text Amendment that would allow a 50% encroachment into the required front, side and rear yard setbacks for handicap ramps. Currently encroachments would only be allowed in the side and rear setbacks.

Financial Impact

None

Action Needed

Conduct Public Hearing

Consideration of the Zoning Text Amendment

Recommendation

The Planning Board and City staff recommend Council move to approve the Zoning Text Amendment.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Proposed Zoning Text Amendment Ordinance
- B February 14, 2011 Draft Planning Board Meeting Minutes



Staff Report

Public Hearing (*Legislative*) – Zoning Text Amendment – Amendments to Section 19 Residential Zones – General Provisions

Introduction

Staff has drafted a zoning text amendment that would allow a 50% encroachment into the required front, side and rear yard setbacks for handicap ramps. Currently encroachments would only be allowed in the side and rear setbacks.

Procedural History

- In January 2011 City Council was notified that staff would prepare this zoning text amendment.
- February 14, 2011 the Planning Board recommended approval of the proposed zoning text amendment.
- March 8, 2011, City Council will conduct a Public Hearing and consider this request.

Stakeholders

- Citizens with Disabilities – Zoning Text Amendment will allow an encroachment into the required front yard setbacks in order to accommodate a handicap ramp. This would eliminate additional time currently required to seek a setback variance through the Board of Adjustment if the ramp can be constructed within the proposed encroachment area.

Public Hearing Notification Assessment

“Before adopting, amending, or repealing any ordinance authorized by this Article, the City Council shall hold a public hearing on it. A notice of the public hearing will be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.” Notifications were provided in accordance with North Carolina General Statutes.

Options:

- 1) Approve the Zoning Text Amendment found in Attachment A. **(RECOMMENDED)**
 - Pros: Would establish encroachments into the front yard setbacks for handicapramps. In many cases the ramp could be constructed in front of the house without having to go through the timely process to seek a variance from the Board of Adjustment.
 - Cons: Clarion Associates are currently drafting the proposed UDO.
- 2) Defer action on the Zoning text Amendment.
 - Pros: Would allow staff time to acquire additional background information as requested by City Council.
 - Cons: None
- 3) Deny the Zoning Text Amendment
 - Pros: Currently in the process of creating a Unified Development Ordinance.
 - Cons: Would not establish encroachments into the front yard setbacks for handicap ramps.

ORDINANCE (# 2011-)

AN ORDINANCE AMENDING THE CITY OF JACKSONVILLE ZONING ORDINANCE

BE IT ORDAINED by the Jacksonville City Council that Section 19. Residential Zones – General Provisions be amended as follows: Underlining indicates a proposed addition to the text.

Section 19. Residential Zones - General Provisions *(Amended 8/22/06)*

- A. All lots shall comply with the applicable Areas of Environmental Concern (AEC) Standards, as amended in accordance with the State Guidelines for AECs (15 NCAC 7H) pursuant to the Coastal Area Management Act of 1974. *(Amended 10/2/79)*
- B. Unless otherwise specified, buildings shall be set back at least 50 feet from the right-of-way, of major thoroughfares, as depicted on the updated City of Jacksonville Thoroughfare Plan. An existing building that intrudes into the required setback may expand, but additional construction shall not be placed in any required setback and all other provisions of this ordinance shall be observed. *(Amended 8/1/89, 11/6/96, 3/4/97, 7/7/98)*
- C. Zero lot line housing in the RD-3, RD-5, RM-5, RS-5, RM-6, and RS-6 is permitted for one interior lot line provided that each of the conditions below are met: *(Amended 2/3/98, 8/6/03)*
1. The final subdivision plat designates placement of the dwelling unit on one of the side lot lines;
 2. No two detached single family dwelling units shall utilize the zero lot line provision on a common lot line;
 3. The remaining side yard is not less than the sum of the two side yards normally required; and
 4. The dwelling unit wall abutting the zero lot line side yard is a solid structural wall with no windows, doors, or other openings. *(Amended 3/4/97, 4/8/97)*
- D. Encroachments permitted into required yard setbacks. *(Amended 11/7/90, 3/8/2011)*
1. Interior lots. Carports, porches, decks, canopies, stairways, completely open (except for reasonable supports) may encroach into required side and rear yards by 50 percent.
 2. Corner lots. Carports, porches, decks, canopies, stairways, completely open (except for reasonable supports) may

Attachment

A

encroach by 75 percent into any yard other than the right-of-way yard setback.

3. Handicap ramps. Handicap ramps may encroach into the required front, side and/or rear setbacks by 50%. The owner of the property shall provide a written statement agreeing to remove the ramp once the person with disabilities no longer needs the ramp.

In defining carports, three sides must be left open; decorative walls, planters, shrubbery, or other obstructions are permitted as part of the carport or adjacent to the carport as long as it does not exceed three feet in height and a minimum of 50 percent of the area is unobstructed.

- E. **Recreational vehicles.** Recreational vehicles may be stored on any lot in any residential zoning district provided they are not stored in the required setback for front yards. Recreational vehicles, while being stored in this area, cannot be used for sleeping, utility, office, material storage, etc.

Sections 20-21. Reserved

BE IT FURTHER ORDAINED by the City Council of the City of Jacksonville that the Zoning Ordinance may be appropriately reorganized and/or renumbered in the order to set the provisions of this text change in a logical and orderly fashion. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be in full force and effective upon its adoption.

Adopted by the Jacksonville City Council in regular session on this 8th day of March, 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk



Draft Planning Board Minutes – February 14, 2011

Agenda Item:	5
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Public Hearing (*Legislative*) – Zoning Text Amendment – Amendments to Section 19 Residential Zones – General Provisions

Staff has drafted a zoning text amendment that would allow a 50% encroachment into the required front, side and rear yard setbacks for handicap ramps. Currently encroachments would only be allowed in the side and rear setbacks.

Staff is recommending approval of the zoning text amendment as presented.

Chairman Lesan asked if this amendment is just to make it easier for applicants to have access to their homes. Mr. King said that is correct.

Thomasine Moore moved to approve zoning text amendment as presented. Vice Chairperson Sandra Wyrick seconded the motion.

The motion to approve zoning text amendment as presented was unanimously approved by the Board Members present.

Attachment

B



Request for City Council Action

Agenda

Item:

6

Date: 3/8/2011

Subject: Public Hearing (*Legislative*) – Zoning Text Amendment – Creation of Section 117 Ice Houses – Atlantic Ice Distributors

Department: Development Services

Presented by: Jeremy B. Smith, Senior Planner

Presentation: Yes

Issue Statement

Atlantic Ice Distributors is requesting amendments to the City's Zoning Ordinance in order to establish "Ice House" as a permitted use. These changes will create an avenue for this use to operate within certain zoning districts provided they meet certain development standards.

It has been determined that the proposal is consistent with expected provisions that will be incorporated into the proposed Unified Development Ordinance (UDO).

Financial Impact

None

Action Needed

Conduct Public Hearing

Consideration of the Zoning Text Amendment

Recommendation

The Planning Board and City staff recommend Council move to approve the Zoning Text Amendment.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Proposed Zoning Text Amendment Ordinance
- B February 14, 2011 Planning Board Meeting Minutes



Staff Report

Agenda Item: 6

Public Hearing (*Legislative*) – Zoning Text Amendment – Creation of Section 117 Ice Houses – Atlantic Ice Distributors

Introduction

Atlantic Ice Distributors is requesting amendments to the City's Zoning Ordinance in order to establish "Ice House" as a permitted use. These changes will create an avenue for this use to operate within certain zoning districts provided they meet certain development standards.

It has been determined that the proposal is consistent with expected provisions that will be incorporated into the proposed Unified Development Ordinance (UDO).

Procedural History

- On January 11, 2011 Atlantic Ice Distributors submitted an application requesting this proposed text amendment.
- On February 14, 2011 the Planning Board recommended approval of the proposed Zoning Text Amendment.
- On March 8, 2011 City Council will conduct a Public Hearing and consider this Zoning Text Amendment.

Stakeholders

- Atlantic Ice Distributors – Applicant who requested the proposed Zoning Text Amendment. Applicant is aware that the current ordinance does not define Ice House and therefore the use is not currently permitted. The applicant believes these changes will be beneficial as it will provide a valuable service to the construction and recreation industries.
- Citizens of Jacksonville – Will provide a use that is not currently defined nor permitted by the City of Jacksonville Zoning Ordinance. This use would be subject to the same development standards used for other proposed developments within the City's jurisdiction.

Public Hearing Notification Assessment

"Before adopting, amending, or repealing any ordinance authorized by this Article, the City Council shall hold a Public Hearing. A notice of the public hearing has been given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing." Notifications in accordance with North Carolina General Statutes will be followed.

Options:

- 1). Approve the Zoning Text Amendment as proposed. **(RECOMMENDED)**
 - Pros: Will create a use and specific design standards that will benefit industry, commerce, and recreation. The proposal is in line with the UDO steering committee recommendations.
 - Cons: Icehouses can be an unattractive.
- 2). Defer action on the propose Zoning Text Amendment.
 - Pros: Would allow staff time to acquire additional background information as requested by the City Council.
 - Cons: None
- 3). Deny the Zoning Text Amendment
 - Pros: None
 - Cons: The proposal is in line with what the UDO steering committee is recommending.

ORDINANCE (# 2011-)

AN ORDINANCE AMENDING THE CITY OF JACKSONVILLE ZONING ORDINANCE

BE IT ORDAINED by the Jacksonville City Council that Sections 10 Definitions, 73 Business-1 Zone, 76 Business-2 Zone, 85 Industrial Zone and 117 Ice Houses of the City of Jacksonville Zoning Ordinance be created and/or amended as follows: ~~Strikethrough~~ indicates the proposed deletion of text while underlining indicates a proposed addition to the text.

Section 10, Definitions:

Ice House – A manned or unmanned facility selling ice manufactured on or off-site to members of the public at retail or wholesale

Section 73 Business 1 (B-1) Zone

Part E Permitted Uses

Ice House

Section 76 Business 2 (B-2) Zone

Part E Permitted Uses

Ice House

Section 85 Industrial (I) Zone

Part F Permitted uses

Ice House

Section 102. Parking Regulations

Part B

Ice Houses – 2 spaces

Section 117. Ice Houses

Part A. Generally.

These regulations are intended for the development of Ice Houses as principle or accessory uses within designated zoning districts. This will be achieved by ensuring proper location, screening and access to proposed Ice Houses.

Attachment

A

Part B. Applicability.

All new Ice Houses proposed within the City limits and its extraterritorial jurisdiction (ETJ) shall comply with Part C. Standards.

Part C. Standards.

1. Ice houses shall be located at least 100 linear feet from any lot line or public street right-of-way.
2. The ice house shall be surrounded with a 4 foot wide planting pit on all sides (excluding any areas necessary for dispensing or servicing). Plantings shall be at least 36 inches in height at the time of planting and form a opaque screen within two years of planting.
3. The ice house shall be placed on a permanent foundation, or provided with masonry or wooden skirting around the entire perimeter.
4. Ice houses shall be served by a semi-circular parking and vehicular access area that removes the need for backing. In cases where the ice house is located within an established surface parking area, access ways shall be painted or otherwise designated.
5. Any signage shall have a maximum copy area of eight square feet.
6. All roof-top mechanical equipment shall be screened and also serve as a canopy around the entire building.
7. Roofs and awnings and the like must have a pitch of between 30- 45 degrees with eaves overhanging the entirety of the building at a minimum depth of 12 inches.
8. The exterior appearance shall be compatible with existing buildings within the area. Compatibility includes but not limited to color, building materials, surface treatments and landscaping.
9. A litter/bag receptacle shall be provided, and shall be maintained in a sanitary condition.

BE IT FURTHER ORDAINED by the City Council of the City of Jacksonville that the Zoning Ordinance may be appropriately reorganized and/or renumbered in the order to set the provisions of this text change in a logical and orderly fashion. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

This ordinance shall be in full force and effective upon its adoption.

Adopted by the Jacksonville City Council in regular session on this 8th day of March, 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk



Planning Board Minutes – February 14, 2011

Agenda
Item: **6**

Zoning Text Amendment – Creation of Section 117 Ice Houses Atlantic Ice Distributors

Atlantic Ice Distributors is requesting amendments to the City's Zoning Ordinance in order to establish "Ice House" as a permitted use. These changes will create an avenue for this use to operate within certain zoning districts provided they meet certain development standards.

It has been determined that the proposal is consistent with expected provisions that will be incorporated into the proposed Unified Development Ordinance (UDO). Staff recommends approval of the zoning text amendment.

Ms. Moore asked what an ice house is. Mr. Smith showed pictures of ice houses in municipalities. Mr. Quinn expressed concerns regarding the signage and landscaping on these ice houses. Mr. Smith explained that there would be signage limitation for these ice houses as well as it would be taken into consideration the signage of the overall parcel. Mr. King stated that as part of the text amendment for the ice house that signage would be limited to eight square feet. We can require that landscaping be a minimum of three to four feet on three sides of the structure. Mr. King also explained that the city is requiring screening these ice houses.

Chuck Quinn moved to approve zoning text amendment to include that the landscaping be four feet around the three sides of the structure. Homer Spring seconded the motion.

Mr. Keys asked about the parking. Mr. Smith explained the parking requirements for the ice houses. Ms. VanderVere asked where these ice houses would be placed. Mr. Smith stated that they can only be placed in the B-1, B-2 or Industrial zones only.

Chairman Lesan commended staff on being proactive in putting regulations on these ice houses to address any issues.

The motion to approve zoning text amendment to include that the landscaping be four feet around the three sides of the structure was unanimously approved by the Board Members present.

Attachment

B



Request for City Council Action

Agenda Item:	7
Date:	3/8/2011

Subject: Public Hearing (*Quasi-Judicial*) – Conditional/Special Use Permit, Site Plan, and Sewer Allocation Request – Hampton Inn (Hotel) – 1032 Hampton Inn Way

Department: Development Services

Presented by: Abigail Barman, Planner

Presentation: Yes

Issue Statement

Jacksonville Hospitality Land Development LLC, has submitted a Conditional/Special Use Permit and Site Plan application for a proposed hotel to be located near Western Boulevard and Branchwood Drive. If approved, a 69,271 square foot 110 room hotel would be permitted on 2.49 acres at 1032 Hampton Inn Way. The property is zoned Conditional Use-Business-1 (CU-B-1) and within this district any use requires a Conditional Use Permit. In addition, a Special Use Permit is required as a result of the combined square footage exceeding 25,000. The proposed development is located within the City Limits.

Financial Impact

None

Action Needed

Conduct Public Hearing

Consideration of the Special Use Permit and Site Plan

Consideration of the Sewer Allocation Request

Recommendation

City Staff and Planning Board recommend City Council move to approve the Conditional/Special Use Permit and Site Plan with Special Use Permit conditions and Site Plan conditions, based on findings of fact A through G being found in the affirmative and to approve the sewer allocation of 13,200 gpd.

Approved: ☒ City Manager ☐ City Attorney

Exhibits:

- A Special Use Permit Worksheet
- B Sewer Allocation Record
- C Draft February 14, 2011 Planning Board Minutes
- D Zoning and Land Use Map
- E Site Plan



Staff Report

Public Hearing (*Quasi-Judicial*) – Conditional/Special Use Permit and Site Plan – Hampton Inn (Hotel) – 1032 Hampton Inn Way

Introduction

Jacksonville Hospitality Land Development LLC, has submitted a Conditional/Special Use Permit and Site Plan application for a proposed hotel to be located near Western Boulevard and Branchwood Drive. If approved, a 69,271 square foot 110 room hotel would be permitted on 2.49 acres at 1032 Hampton Inn Way. The property is zoned Conditional Use-Business-1 (CU-B-1) and within this district any use requires a Conditional Use Permit. In addition, a Special Use Permit is required as a result of the combined square footage exceeding 25,000.

The proposed development is located within the City Limits and as proposed will impact the City's Sewer Allocation Policy. A request for sewer allocation in the amount of 13,200 gpd (gallons per day) to serve a 110 unit Hotel has been submitted. Staff has reviewed this request and has determined that it complies with the adopted Sewer Flow Allocation Policy.

Procedural History

- On January 10, 2011, Parker and Associates, Inc. submitted an application for this Conditional/Special Use Permit and Site Plan.
- On February 14, 2011 Planning Board recommended approval of the Conditional/Special Use Permit Plan with conditions.
- On March 8, 2011 City Council will conduct a public hearing and consider this request.

Stakeholders

- Douglas S. Padgett – Owner
- Jacksonville Hospitality Land Development LLC - Applicant
- Parker and Associations – Surveyors/Engineers/Land Planners
- Adjacent property owners – As required by the Zoning Ordinance, public hearing notifications have been sent to all adjacent property owners within 200 feet of the property prior to the public hearing that will be held by City Council. In addition, signs have been posted on site and legal advertisements have been printed in the Jacksonville Daily News.

Zoning Assessment

The property is located in the City Limits and is zoned Conditional Use-Business-1 (CU-B-1). It is bordered to the north, northwest and northeast by undeveloped property, zoned CU B-1; and to the south, southwest and southeast by undeveloped property, zoned Business – 1 (B-1).

Land Use Assessment

Adopted CAMA Land Use Plan (1999)

The adopted CAMA Plan from 1999 identifies the area's land classification as "Urban Transition." Areas that are identified as "urban transition" are areas that are being developed for urban purposes or will be developed in five to ten years from the time of the writing of the Plan. "Urban Transition" land accommodates a variety of uses from residential, commercial, industrial and other land uses at high or moderate densities in excess of 3 units per acre.

While the 1999 Plan is the City's only adopted CAMA Plan at this time, the age of the plan should be recognized and as such and the Plan's broad nature should be viewed as a historical document instead of a true guide for future growth and development.

The Growth Management Plan Future Land Use Map (2007)

The Growth Management Plan (GMP) identifies the subject parcel as Regional Commercial (RC) in its Future Land Use Map.

Regional Commercial is intended for services, large-scale retail and wholesaling activities that serve the entire community and the region. RC areas should have access to a major thoroughfare.

The GMP Future Land Use Map is sometimes an accurate depiction of current land uses in Jacksonville, but it often does not take into consideration future growth patterns and trends. Because of this short-term land use approach, all Future Land Use Amendments should consider previously adopted plans, the GMP Map and the Draft CAMA Future Land Use Map.

Draft CAMA Land Use Plan (2011)

While not formally approved yet, the Draft CAMA Plan represents a long range vision for community growth 20 to 30 years into the future. Created by staff, professional consultants and community stakeholders, the Draft CAMA Plan is the most comprehensive depiction of future growth for the City and its ETJ.

The Draft CAMA Plan identifies the area as Regional Commercial (RC). This RC designation is intended for services, large-scale retail and wholesaling activities that serve the entire community and the region. RC areas should have access to a major thoroughfare and building coverage should comprise approximately 25% of the lot.

The subject parcel is surrounded by RC to the North, East, South and West.

Evaluation

Staff believes that the proposed project's land use is consistent with the draft CAMA and the GMP FLU Map. Further the proposed development and its associated land use is complementary to the surrounding designated land uses of the draft CAMA Plan.

Sewer Flow Allocation Assessment

The intent of the Sewer Allocation Policy is to manage limited capacity; plan for the future; allocate sewer in a fair and equitable manner; and incentivize infill development. The policy establishes development priorities through a tiered system. Tier 1 projects are the highest priority which includes infill developments, previously approved development, and municipal projects. Second tier (Tier 2) projects include developments that have met City application requirements and Tier 3 projects are speculative in nature.

Allocation may be reserved for four distinct categories; however, the method by which it is reserved varies by Tier. For example, allocation for most Tier 1 projects can be granted by staff; Tier 2 projects follow the development approval process; and Tier 3 projects require a reservation fee and sketch plan approved by Council. The four categories by which allocation may be reserved are Single-Family Residential, Multi-Family Residential, Commercial, and Discretionary. Projects, such as Hampton Inn & Suites, in the Multi-Family Residential Category are eligible for two phases of development with a maximum allocation of 57,600 gpd (the equivalent of 240 two-bedroom units) per phase.

Once sewer allocation has been granted for Tier 1 and Tier 2 projects, the applicant has 18 months to use the allocation regardless of the category. Allocation that has not been used within this period automatically reverts to the City; however, the proposed policy allows staff to grant a 6 month extension if the delay is a result of factors beyond the applicant's control. Any subsequent extensions must be granted by City Council.

Hampton Inn & Suites has submitted a request for sewer flow allocation totaling 13,200 gpd (gallons per day) to serve 110 units.

Staff has reviewed the sewer allocation request and has determined that it does comply with the adopted sewer allocation policy.

Parking Assessment

In accordance with Section 102 Parking Requirements, a hotel shall provide 1 parking space per room, plus 5 additional spaces for staff. The hotel is required 115 spaces. The developer is allowed a 20% reduction in parking because the combined uses are over 25,000 square feet. A 20% reduction would equal 29 spaces, making the required spaces after reduction 86. The developer is not proposing to use the allowed reduction and is proposing a total of 115 spaces.

Public Hearing Notification

As required by the Zoning Ordinance, public hearing notifications have been sent to all adjacent property owners within 200 feet of the property prior to the public hearing that will be held by City Council. In addition, signs have been posted on site and legal advertisements have been printed in the Jacksonville Daily News.

Merits of the Conditional/Special Use Permit

Pursuant to Section 118, Special and Conditional Use Permits, of the Zoning Ordinance, staff submits the following findings of fact:

- a. The proposed use is an acceptable use in the zoning district it is being located in;

Staff findings: The property is zoned Conditional Use-Business-1 (CU-B-1) and within this district any use requires a Conditional Use Permit. In addition, a Special Use Permit is required because the combined square footage exceeds 25,000.

- b. The application is complete;

Staff findings: The necessary applications, fees, special use permit have been submitted in accordance with City policies and procedures.

- c. The location and character of the use will be in conformity with the City's land use plan and other comprehensive plan elements;

Staff findings: Staff believes that the proposed project's land use is consistent with the draft CAMA and the GMP FLU Map. Further the proposed development and its associated land use is complementary to the surrounding designated land uses of the draft CAMA Plan.

- d. Streets, driveways, parking lots, traffic control and any other traffic circulation features are designed and/or provided in accordance with current traffic engineering standards and City regulations, and found to be appropriate for the conditional use;

Staff findings: City staff has determined that the site plan does not meet all applicable standards and approval should be conditioned upon the following: Correct minor issues with site plan and site data block related to dumpster enclosure, parking, sidewalks, and number and location of fire hydrants.

- e. The proposed conditional/special use will not substantially injure the value of adjoining or abutting properties;

Staff findings: The property is located in the City Limits and is zoned Conditional Use-Business-1 (CU-B-1). It is bordered to the north, northwest and northeast by undeveloped property, zoned CU B-1; and to the south, southwest and southeast by undeveloped property, zoned Business – 1 (B-1).

Staff has neither found nor been presented with any evidence that the proposed use would substantially injure the value of adjoining or abutting properties.

- f. The proposed conditional/special use will be compatible and in harmony with adjoining land uses and the development pattern of the immediate area;

Staff findings: The property is located in the City Limits and is zoned Conditional Use-Business-1 (CU-B-1). It is bordered to the north, northwest and northeast by undeveloped property, zoned CU B-1; and to the south, southwest and southeast by undeveloped property, zoned Business – 1 (B-1).

Staff has neither found or been presented with any evidence that the proposed use is not compatible and in harmony with adjoining land uses and the development pattern of the immediate area.

- g. The proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

Staff findings: Staff has not been presented with any evidence that the proposed use would materially endanger the public health or safety if located where proposed.

Options

- A.** Approve the Conditional/Special Use Permit, Site Plan and sewer flow allocation as presented.

- Pros: None.
- Cons: The proposed site plan does not meet all applicable City Standards.

- B.** Approve the Conditional/Special Use Permit Plan and sewer flow allocation with conditions: **(RECOMMENDED)**

- Pros: Allows the process to move forward while ensuring a site plan for staff review is submitted within a reasonable timeframe. The developer would continue to have allocation sufficient to serve the 110 Units of this commercial development.
- Cons: Continuing to reserve this allocation would tie up allocation that could be used for other projects.

Conditions of Special Use Permit: Record the final plat for the Padgett Tract Subdivision prior to any building permit being issued.

Conditions of Site Plan: Correct minor issues with site plan and site data block related to dumpster enclosure, parking, sidewalks, and number and locations of fire hydrants.

- C.** Deny the Conditional/Special Use Permit and Site Plan request.

- Pros: The proposed site plan does not meet all applicable City Standards. Allocation would be made available for other developments.
- Cons: None.

- D.** Defer Consideration of the request.

- Pros: Deferral would allow staff sufficient time to address any concerns the City Council may have.
- Cons: Deferral would cause unexpected delays for the applicant.

WORKSHEET FOR CONDITIONAL/SPECIAL USE PERMITS

Applicant: Jacksonville Hospitality Land Development LLC

Location: 1032 Hampton Inn Way (Tax Map & Parcel ID # 345-9.18)

Proposed Use of Property: Hotel (greater than 25,000 square feet)

1. FINDINGS OF FACT

a.	The application is complete	Yes	No
b.	The proposed use is an allowable Special/Conditional use in the zoning district it is being located in	Yes	No
c.	The location and character of the use will be in conformity with the City's land use plan and other comprehensive plan elements	Yes	No
d.	Streets, driveways, parking lots, traffic control and other traffic circulation features shall be designed and/or provided in accordance with current traffic engineering standards and City regulations, and found to be adequate for the proposed Special/Conditional/conditional use	Yes	No
e.	The proposed Special/Conditional use will not substantially injure the value of adjoining or abutting properties	Yes	No
f.	The proposed Special/Conditional use will be compatible and in harmony with adjoining land uses and the development pattern of the immediate area	Yes	No
g.	The proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.	Yes	No

2. GRANTING THE SPECIAL/CONDITIONAL USE PERMIT

Motion to grant the Special/Conditional use permit based on items (a) through (g) found to be affirmative.

___ The Special/Conditional Use Permit is granted, subject to the following conditions:

- 1) The applicant shall complete the development strictly in accordance with the plans submitted to an approved by City Council.
- 2) If any conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect: _____

3. DENYING THE SPECIAL/CONDITIONAL USE PERMIT

motion to deny based on:

___ The Application is denied because, if completed as proposed, the development more probably than not: _____

___ Will not be in conformity with the City's land use plan and other comprehensive plan elements for the following reasons: _____

___ Will substantially injure the value of adjoining or abutting properties for the following reasons: _____

___ Will not be compatible and not be in harmony with adjoining land uses and the development pattern of the immediate area for the following reasons: _____

Exhibit

A



Planning Board Minutes – February 14, 2011

Agenda Item:	7
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Public Hearing (*Quasi-Judicial*) – Special Use Permit and Site Plan – Mainstay Suites (Hotel) and Restaurant – 2201 N. Marine Blvd.

Jacksonville Hospitality Land Development LLC has submitted a Conditional/Special Use Permit and Site Plan application for a proposed hotel. If approved, a 69,271 square foot 110 room hotel would be permitted on 2.49 acres at 1030 Hampton Inn Way. The property is zoned Conditional Use-Business-1 (CU-B-1) and within this district any use requires a conditional use permit. In addition, a special use permit is required as a result of the combined square footage is exceeding 25,000.

The proposed development is located within the City limits and as proposed will impact the City's Sewer Allocation Policy. Sewer Allocation requests will be processed in accordance with the adopted policy. City staff is recommending approval of the Conditional/Special Use Permit and Site Plan based on findings of fact A through G being found in the affirmative with conditions identified within the staff report.

Ms. Moore asked if there was a traffic study done for this project. Ms. McTigue explained that based on the calculation no TIA would be required for this project and that it was double checked.

Mr. Keys asked how the traffic would go in and out of the by-pass. It was explained and shown how traffic would could enter and exit the hotel.

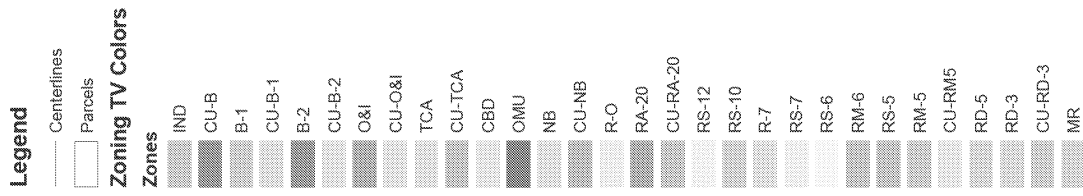
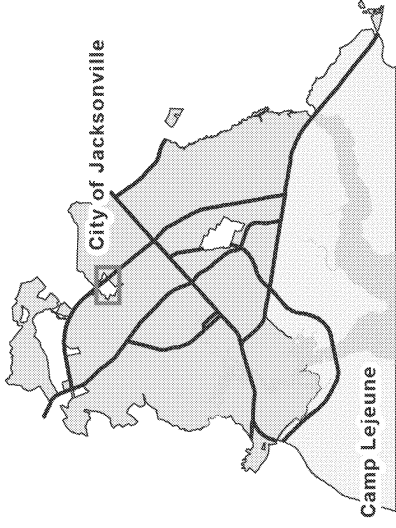
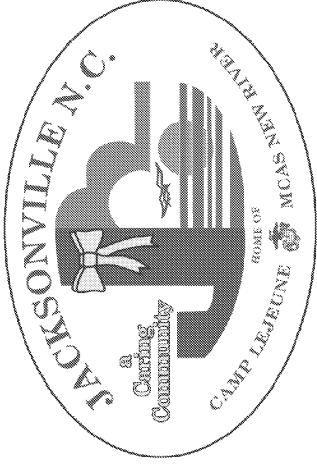
Chuck Quinn moved to approve the conditional/special use permit and site plan adding in the conditions that are noted by staff with findings of fact A through G being found in the affirmative. Homer Spring seconded the motion.

The motion to approve the conditional/special use permit and site plan adding in the conditions that are noted by staff with findings of fact A through G being found in the affirmative was approved by the Board Members present. The motion was voted for by Vice Chairperson Sandra Wyrick, Alfred Keyes, Thomasine Moore, Chuck Quinn, Homer Spring, and Theresa VanderVere and against by Pauline Joos.

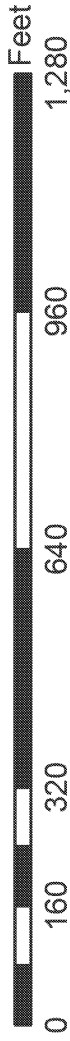
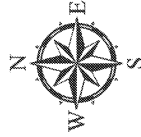
Exhibit

C

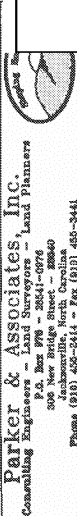
Hampton Inn - Western Blvd.



Exhibit



Disclaimer: This Map is intended to use for planning purposes only. City of Jacksonville or its individual departments are not liable for any data inaccuracies. Once again this map should not be used for any legal boundary determinations and data displayed on this map is collected from various different sources.





Request for City Council Action

Agenda Item:	8
Date:	3/8/2011

Subject: Public Hearing (*Quasi-Judicial*) – Special Use Permit, Site Plan, and Sewer Allocation Request – Stevenson Toyota – 3124 New Bern Highway

Department: Development Services

Presented by: Jeremy B. Smith, Senior Planner

Presentation: Yes

Issue Statement

McKim and Creed has submitted a Special Use Permit and Site Plan application for a proposed automobile sales business. If approved, the 85,079 square foot automobile sales center would be permitted at 3124 New Bern Highway. The property is zoned Business-1 (B-1) and within this district automobile sales lots are permitted; however, the combined square footage is over 25,000, therefore a special use permit is required.

As proposed the development will impact the City's Sewer Flow Allocation Policy; however, the project is currently located within the City's Extraterritorial Jurisdiction but a request for Voluntary Annexation has been received.

Financial Impact

None

Action Needed

Conduct Public Hearing

Consideration of the Special Use Permit and Site Plan

Consideration of Sewer Allocation Request

Recommendation

The Planning Board and City staff recommend Council move to approve the Special Use Permit and Site Plan based on findings of fact A through G being found in the affirmative and conditions identified within the Staff Report and that the developer be advised that building permits and/or certificates of occupancies may be withheld until water and sewer service is available and to approve the sewer allocation of 5,625 gpd subject to annexation

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Special Use Permit Worksheet
- B Sewer Allocation Record
- C Draft Planning Board Minutes, February 14, 2011
- D Zoning and Land Use Map
- E Site Plan



Staff Report

Public Hearing (*Quasi-Judicial*) – Special Use Permit, Site Plan, and Sewer Allocation
Request – Stevenson Toyota – 3124 New Bern Highway

Introduction

McKim and Creed has submitted a Special Use Permit and Site Plan application for a proposed automobile sales business. If approved, an 85,079 square foot automobile sales center would be permitted at 3124 New Bern Highway. The property is zoned Business-1 (B-1) and within this district automobile sales lots are permitted; however, the combined square footage is over 25,000 therefore a special use permit is required.

As proposed the development will impact the City's Sewer Flow Allocation Policy and a request for sewer has been received. However, the project is currently located within the City's Extraterritorial Jurisdiction but a request for Voluntary Annexation has been received.

Procedural History

- On December 7, 2010 the City Council approved the rezoning of this property from Industrial to Business-1.
- On January 11, 2011, McKim and Creed submitted an application for this Special Use Permit and Site Plan.
- On January 18, 2011 a Transportation Impact Analysis was completed by the City's on-call engineer, M/A/B.
- On February 14, 2011 the Planning Board recommended approval of this request.
- March 8, 2011 the initial annexation petition will be considered by City Council.
- On March 8, 2011 City Council will conduct a public hearing and consider this request.

Stakeholders

- McKim & Creed – Applicant/Design Professional
- John O. Stevenson – Property owner
- Adjacent Property Owners – As required by the Zoning Ordinance, public hearing notifications have been sent to all adjacent property owners within 200 feet of the property prior to the public hearing that will be held by City Council. In addition, signs have been posted on site and legal advertisements have been printed in the Jacksonville Daily News.

Zoning Assessment

The property is located in the City's Extraterritorial Jurisdiction and is zoned Business-1 (B-1). It is bordered to the northeast by undeveloped property, split zoned Industrial (IND) and Residential Multi family 5 (RM-5); to the south and southeast by undeveloped property zoned Townhomes, Condominiums and Apartments (TCA) and Residential Multi family 5 (RM-5); to the southwest by undeveloped property, split zoned Industrial (IND) and Residential Multi family 5 (RM-5); and to the north across New Bern Highway by properties with various residential and small commercial uses, zoned Business 2 (B-2), RM-5, and Conditional Use Business 2 (CU-B-2).

Transportation Assessment

As required by the Jacksonville Zoning Ordinance, an external Transportation Impact Analysis (TIA) was conducted for this development. The draft TIA was submitted by Martin/Alexiou/Bryson, PC on January 18, 2011 and is currently under review by NCDOT. The TIA will be finalized once comments from NCDOT are received. The TIA evaluated the traffic impact of the following project:

- 85,079 square feet of car sales building space, including 78,085 square feet for a automotive sales/service building and 6,994 square feet for a detail center

The *ITE Trip Generation Manual, 8th Edition* was used to determine the anticipated traffic volume data for the proposed development, located on the south side of US 17 (N. Marine Boulevard), across from Drummer Kellum Road. It was determined that the peak hours for analysis would include typical weekday PM and typical Saturday Mid-day. Table 1 indicates the average two-way daily traffic volume and the peak hour totals that the development is expected to generate at full build-out.

Table 1: Estimated Traffic Volumes – New Car Sales Development

Time Period	Saturday	Weekday
Average Daily 2-way Volume	1,789	2,837
Saturday Mid-Day 2-way Peak Hour Volume (11 AM – 1 PM)	253	-
Weekday PM 2-way Peak Hour Volume (4 – 6 PM)	-	178

An existing year 2010 analysis was conducted as well as a 2012 analysis, which projects operations once the development is completed. The TIA identified roadway improvements necessary to mitigate the joint impacts of the proposed development on the adjacent highways. Table 2 summarizes the Level of Service (LOS) results as reported in the TIA.

Table 2: Level of Service Summary (Saturday Mid-Day Peak / Weekday PM Peak)

Intersection	Existing (2010)	No-Build (2012)	Build (2012)
US 17 and Piney Green Road	C/C	D/D	D/D
US 17 and Drummer Kellum Road/Site Access #1	B/B	B/C	E/F
US 17 and Site Access #2	-	-	B/B

The development is not expected to have a significant traffic impact on the adjacent intersections. The US 17 and Piney Green Road traffic signal maintains acceptable operations once the development is completed, with the understanding that the improvements recommended as part of the North Marine Town Center development are implemented. The existing stop controlled approach of Drummer Kellum Road at US 17 will maintain acceptable operations if that location is left as a full access median opening.

Site Access #1, located just across from that approach is projected to operate below LOS D during the analyzed peak hours; however, the delays and associated queuing were confined to the project site, not impacting flow along US 17 and were not considered extreme. Additionally, the projected volume at this location does not meet the peak hour signal warrants, as shown in a preliminary signal warrant analysis. The right-in/right-out only (RIRO) Site Access #2 along US 17 is projected to operate acceptably in the future. The following roadway improvements were recommended as part of the TIA to ensure safety and acceptable operations:

US 17 and Site Access #1/Drummer Kellum Road

This access is proposed to be a full movement driveway, aligned with the existing Drummer Kellum Road. The intersection should accommodate the following:

- A northbound right turn lane with at least 150 feet of full storage and appropriate taper
- A westbound exclusive left-turn lane with at least 150 feet of storage and appropriate taper and a westbound shared through-right turn lane
- A single ingress lane on the site driveway will be sufficient
- The driveway should provide at least 100' of internal protected stem before allowing internal crossing maneuvers

US 17 and Site Access #2

This access is proposed to be a right-in/right-out only driveway. The driveway should accommodate the following;

- A single ingress and egress lane
- A northbound right-turn lane with 150 feet of storage and appropriate taper
- Appropriate signage indicating the left-turn prohibition at this location
- The driveway should provide at least 100' of internal protected stem before allowing internal crossing maneuvers

The above turn lanes and restriping improve operations and safety by providing an exclusive space in which vehicles may decelerate prior to turning into the site.

It should be noted that this TIA is currently under review by NCDOT; and the recommendations on improvements are still subject to approval.

Collector Street Assessment

The adopted 2009 Jacksonville Collector Street Plan was developed as an update to the 2000 Collector Street Plan and to provide the City of Jacksonville with a master street plan to guide future development. The proposed property site for Stevenson Toyota, located at 3124 New Bern Highway, includes two future collector streets identified in the 2009 Jacksonville Collector Street Plan.

The Stevenson Toyota site plan shows the proposed collector street, along the northeast boundary of the proposed site and is designed as a site access road. While the site plan shows the road stub at the end of the property line, the entire Collector Street is proposed to extend east to west, aligning with Drummer Kellum Road, connecting with Wolf Swamp Road, and terminating at Piney Green Road. The applicant is proposing to build, to NCDOT standards, the first portion of the Collector Street as shown on the site plan.

The 2009 Jacksonville Collector Street Plan identifies a future collector street, named Commerce Road, along the southeastern boundary of the proposed site. Commerce Road is a parallel facility to New Bern Highway (North Marine Boulevard) and is proposed to extend south to north, from the current Commerce Road stub, across Piney Green Road, and terminating at Wolf Swamp Road. The Stevenson Toyota site plan does not show this collector street on their site plan.

As typical with identified future streets, City staff required both streets to be shown as collector streets as part of the Stevenson Toyota development process. During the TIA scoping meeting held, December 2nd, 2010, staff requested and recommended that this section of the proposed Commerce Road collector street be shown on the initial site plan with the appropriate 60-foot right-of-way width and associated street cross-section where it connects to the shown collector street aligning with Drummer Kellum Road. City staff advised the applicant that according to the 2009 Jacksonville Collector Street Plan, construction of the Commerce Road collector street, under NC General Statutes, may occur through any of four scenarios:

- A developer builds the street;
- A developer builds a portion of the street, with public or private interests constructing the remainder;
- A developer dedicates land or provides appropriate setbacks for a future street to be constructed by other public or private interests; or

- A municipality purchases right-of-way and constructs the street, of which some portions may be funded by fees collected from developers.

A meeting with the applicant was held January 24th 2011, in which the applicant noted a mutual agreement among property owners along the right-of-way for the proposed collector street, named Commerce Road. City staff requested the applicant either build the section of the Commerce Road collector street or provide appropriate documentation of the property owner agreement with the determination of responsible parties to construct this section of the road at a time to be determined. City staff recommends that the Special Use Permit be conditioned upon the following:

1. Construct and execute all recommended improvements as noted in the final TIA; and
2. A. Construct and execute the proposed collector street, named Commerce Road; or
B. Provide an acceptable agreement that outlines the responsible parties for constructing this section of Commerce Road and dedicate the right-of-way to the City of Jacksonville.

Land Use Assessment

Adopted CAMA Land Use Plan (1999)

The adopted CAMA Plan from 1999 identifies the area's land classification as "Developed." Areas that are identified as "developed" are urban in character with no or minimal vacant land remaining. "Developed" land accommodates a variety of uses from residential, commercial, industrial and other land uses at high or moderate densities in excess of 3 units per acre.

While the 1999 Plan is the City's only adopted CAMA Plan at this time, the age of the plan should be recognized and as such and the Plan's broad nature should be viewed as a historical document instead of a true guide for future growth and development.

The Growth Management Plan Future Land Use Map (2007)

The Growth Management Plan (GMP) identifies the subject parcel as Regional Commercial (RC) in its Future Land Use Map.

Regional Commercial is intended for services, large-scale retail and wholesaling activities that serve the entire community and the region. RC areas should have access to a major thoroughfare.

The GMP Future Land Use Map is sometimes an accurate depiction of current land uses in Jacksonville, but it often does not take into consideration future growth patterns and trends. Because of this short-term land use approach, all Future Land Use Amendments should consider previously adopted plans, the GMP Map and the Draft CAMA Future Land Use Map.

Draft CAMA Land Use Plan (2011)

While not formally approved yet, the Draft CAMA Plan represents a long range vision for community growth 20 to 30 years into the future. Created by staff, professional consultants and community stakeholders, the Draft CAMA Plan is the most comprehensive depiction of future growth for the City and its ETJ.

The Draft CAMA Plan identifies the area as Mixed Use (MX) and being located within a Regional Commercial Node. This MX designation is intended for development that blends two or more of the following uses: residential, commercial, cultural, and institutional. Mixed-use development should allow for greater housing variety and density, reduce distances between housing, workplaces, retail businesses, and other destinations, encourages more compact development, strengthen neighborhood character, promote pedestrian and bicycle friendly environments. MX development can be vertically integrated or horizontally integrated. However, horizontal mixed use should ensure that the differing uses are located close enough that they are walk able and accessible in ways that the users are not dependant on independent auto travel.

The subject parcel is surrounded by MX to the North, East, South and West.

Evaluation

Staff believes that the proposed project's land use is consistent with the GMP FLU Map.

As an identified Regional Commercial Node in the draft CAMA Plan, it is expected that this area of Jacksonville will continue to develop in a denser pattern in the upcoming years. Also, considering the planned roadway improvements to Piney Green Road by NCDOT, it is reasonable to expect further interest in denser development patterns in the near future. With that understanding however, it will be imperative to encourage high quality, sustainable growth that reflects the tenants of Smart Growth, the foundation of the Growth Management Plan.

The subject parcel will ideally accommodate high densities and more intense development patterns with shared access, internal site circulation, common signage, landscaping, lighting, architecture and parking. Because of the potential for the Node's regional attraction, development on all parcels should be thoughtfully planned and integrated so that a sustainable mix of uses is ensured as well as bicycle and pedestrian friendly development, and that the differing uses are located close enough that they are walk able and accessible in ways that the users are not dependant on independent auto travel.

Sewer Flow Allocation Assessment

The intent of the Sewer Allocation Policy is to manage limited capacity; plan for the future; allocate sewer in a fair and equitable manner; and incentivize infill development. The policy establishes development priorities through a tiered system. Tier 1 projects are the highest priority which includes infill developments, previously approved development, and municipal projects. Second tier (Tier 2) projects include developments that have met City application requirements and Tier 3 projects are speculative in nature.

Allocation may be reserved for four distinct categories; however, the method by which it is reserved varies by Tier. For example, allocation for most Tier 1 projects can be granted by staff; Tier 2 projects follow the development approval process; and Tier 3 projects require a reservation fee and sketch plan approved by Council. The four categories by which allocation may be reserved are Single-Family Residential, Multi-Family Residential, Commercial, and Discretionary. Projects, such as Stevenson Toyota Dealership, in the Commercial Category are eligible for two phases of development with a maximum allocation of 15,000 gpd per phase.

Once sewer allocation has been granted for Tier 1 and Tier 2 projects, the applicant has 18 months to use the allocation regardless of the category. Allocation that has not been used within this period automatically reverts to the City; however, the proposed policy allows staff to grant a 6 month extension if the delay is a result of factors beyond the applicant's control. Any subsequent extensions must be granted by City Council. Stevenson Toyota Dealership has submitted a request for sewer flow allocation totaling 5,625 gpd (gallons per day) to serve this Auto Dealership.

Staff has reviewed the sewer allocation request and has determined that it does comply with the adopted sewer allocation policy.

Parking Assessment

In accordance with Section 102 Parking Requirements, an automobile sales lot shall provide 1 space per every 600 square feet of sales floor area and automobile service center is required 1 space per 250 square feet. The proposed automobile sales and service center lot is required to provide 270 parking spaces based on the proposed square footages. The developer is allowed a 20% reduction in parking because the combined uses are over 25,000 square feet. A 20% reduction would equal 54 less parking spaces, making the required spaces after reduction 216. The developer is proposing 556 spaces (includes display for new and used vehicle inventory)

Public Hearing Notification

As required by the Zoning Ordinance, public hearing notifications have been sent to all adjacent property owners within 200 feet of the property prior to the public hearing that will be held by City Council. In addition, signs have been posted on site and legal advertisements have been printed in the Jacksonville Daily News.

Merits of the Special Use Permit

Pursuant to Section 118, Special and Conditional Use Permits, of the Zoning Ordinance, staff submits the following findings of fact:

- a. The proposed use is an acceptable use in the zoning district it is being located in;

Staff findings: The subject property is zoned Business-1 (B-1) and within this zoning district, an automobile sales lot are a permitted use; however, due to the combination of buildings exceeding 25,000, a Special Use Permit is required.

- b. The application is complete;

Staff findings: The necessary applications, fees, special use permit have been submitted in accordance with City policies and procedures.

- c. The location and character of the use will be in conformity with the City's land use plan and other comprehensive plan elements;

Staff findings: Staff believes that the proposed project's land use is consistent with the GMP FLU Map.

As an identified Regional Commercial Node in the draft CAMA Plan, it is expected that this area of Jacksonville will continue to develop in a denser pattern in the upcoming years. Also, considering the planned roadway improvements to Piney Green Road by NC DOT, it is reasonable to expect further interest in denser development patterns in the near future. With that understanding however, it will be imperative to encourage high quality, sustainable growth that reflects the tenants of Smart Growth, the foundation of the Growth Management Plan.

The subject parcel will ideally accommodate high densities and more intense development patterns with shared access, internal site circulation, common signage, landscaping, lighting, architecture and parking. Because of the potential for the Node's regional attraction, development on all parcels should be thoughtfully planned and integrated so that a sustainable mix of uses is ensured as well as bicycle and pedestrian friendly development, and that the differing uses are located close enough that they are walk able and accessible in ways that the users are not dependant on independent auto travel.

- d. Streets, driveways, parking lots, traffic control and any other traffic circulation features are designed and/or provided in accordance with current traffic engineering standards and City regulations, and found to be appropriate for the conditional use;

Staff findings: City staff has determined that the site plan does not meet all applicable standards and approval of the site plan and Special Use Permit should be conditioned upon the following:

Conditions of Special Use Permit:

1. Construct and execute all recommended improvements as noted in the final TIA; and
2. A. Construct and execute the proposed collector street, named Commerce Road; or
B. Provide an acceptable agreement that outlines the responsible parties for constructing this section of Commerce Road and dedicate the right-of-way to the City of Jacksonville.
3. Septic System may be used until the time when City Sewer is available to the site.

Conditions of Site Plan:

1. Show correct parking calculations; and
 2. Show the proposed collector street, named Commerce Road, on the site plan if an acceptable agreement cannot be provided (Condition of SUP 2B above).
- e. The proposed conditional/special use will not substantially injure the value of adjoining or abutting properties;

Staff findings: The property is located City's Extraterritorial Jurisdiction and is zoned Business-1 (B-1). It is bordered to the northeast by undeveloped property, split zoned Industrial (IND) and Residential Multi family 5 (RM-5); to the south and southeast by undeveloped property zoned Townhomes, Condominiums and Apartments (TCA) and Residential Multi family 5 (RM-5); to the southwest by undeveloped property, split zoned Industrial (IND) and Residential Multi family 5 (RM-5); and to the north across New Bern Highway by properties with various residential and small commercial uses, zoned Business 2 (B-2), RM-5, and Conditional Use Business 2 (CU-B-2).

Staff has neither found nor been presented with any evidence that the proposed use would substantially injure the value of adjoining or abutting properties.

- f. The proposed conditional/special use will be compatible and in harmony with adjoining land uses and the development pattern of the immediate area;

Staff findings: The property is located City's Extraterritorial Jurisdiction and is zoned Business-1 (B-1). It is bordered to the northeast by undeveloped property, split zoned Industrial (IND) and Residential Multi family 5 (RM-5); to the south and southeast by undeveloped property zoned Townhomes, Condominiums and Apartments (TCA) and Residential Multi family 5 (RM-5); to the southwest by undeveloped property, split zoned Industrial (IND) and Residential Multi family 5 (RM-5); and to the north across New Bern Highway by properties with various residential and small commercial uses, zoned Business 2 (B-2), RM-5, and Conditional Use Business 2 (CU-B-2).

Staff has neither found or been presented with any evidence that the proposed use is not compatible and in harmony with adjoining land uses and the development pattern of the immediate area.

- g. The proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

Staff findings: Staff has not been presented with any evidence that the proposed use would materially endanger the public health or safety if located where proposed.

Options

A. Approve the Special Use Permit and Site Plan as presented.

- Pros: None.
- Cons: The proposed site plan does not meet all applicable City Standards. Does not incorporate the two recommended conditions.

B. Approve the Special Use Permit and Site Plan with conditions and approve the sewer allocation request contingent upon annexation: **(RECOMMENDED)**

- Pros: Allows the process to move forward while finalizing the TIA requirements and water/sewer service to the site.
- Cons: None.

Conditions of Special Use Permit:

1. Construct and execute all recommended improvements as noted in the final TIA; and
2. A. Construct and execute the proposed collector street, named Commerce Road; or
B. Provide an acceptable agreement that outlines the responsible parties for constructing this section of Commerce Road and dedicate the right-of-way to the City of Jacksonville.

Conditions of Site Plan:

1. Show correct parking calculations; and
2. Show the proposed collector street, named Commerce Road, on the site plan if an acceptable agreement cannot be provided (Condition of SUP 2B above).

C. Deny the Special Use Permit and Site Plan request.

- Pros: The proposed site plan does not meet all applicable City Standards.
- Cons: None

D. Defer Consideration of the request.

- Pros: Deferral would allow staff sufficient time to address any concerns the City Council may have.
- Cons: Deferral would cause unexpected delays for the applicant.

WORKSHEET FOR SPECIAL USE PERMITS

Applicant: John O. Stevenson

Location: 3124 New Bern Highway (Tax Map 350, Parcel ID # 56.5)

Proposed Use of Property: Automobile Sales Lot (greater than 25,000 square feet)

1. FINDINGS OF FACT

a.	The application is complete	Yes	No
b.	The proposed use is an allowable Special/Conditional use in the zoning district it is being located in	Yes	No
c.	The location and character of the use will be in conformity with the City's land use plan and other comprehensive plan elements	Yes	No
d.	Streets, driveways, parking lots, traffic control and other traffic circulation features shall be designed and/or provided in accordance with current traffic engineering standards and City regulations, and found to be adequate for the proposed Special/Conditional/conditional use	Yes	No
e.	The proposed Special/Conditional use will not substantially injure the value of adjoining or abutting properties	Yes	No
f.	The proposed Special/Conditional use will be compatible and in harmony with adjoining land uses and the development pattern of the immediate area	Yes	No
g.	The proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.	Yes	No

2. GRANTING THE SPECIAL/CONDITIONAL USE PERMIT

Motion to grant the Special/Conditional use permit based on items (a) through (g) found to be affirmative.

___ The Special/Conditional Use Permit is granted, subject to the following conditions:

- 1) The applicant shall complete the development strictly in accordance with the plans submitted to an approved by City Council.
- 2) If any conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect: _____

3. DENYING THE SPECIAL/CONDITIONAL USE PERMIT

motion to deny based on:

___ The Application is denied because, if completed as proposed, the development more probably than not: _____

___ Will not be in conformity with the City's land use plan and other comprehensive plan elements for the following reasons: _____

___ Will substantially injure the value of adjoining or abutting properties for the following reasons: _____

___ Will not be compatible and not be in harmony with adjoining land uses and the development pattern of the immediate area for the following reasons: _____

Exhibit

A



Planning Board Minutes – February 14, 2011

Agenda Item:	8
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Public Hearing (*Quasi-Judicial*) – Special Use Permit, Site Plan, and Sewer Allocation
Request – Stevenson Toyota – 3124 New Bern Highway.

McKim and Creed has submitted a special use permit and site plan application for a proposed automotive sales lot. If approved, the 85,079 square foot automobile sales center would be permitted at 3124 New Bern Highway. The property is zoned Business 1 (B-1) and within this district automotive sales lots are permitted; however, the combined square footage is over 25,000 therefore a special use permit is required.

As proposed the development will impact the City's Sewer Flow Allocation Policy; however, the project is located within the City's Extraterritorial Jurisdiction. In accordance with City policies, an annexation request must be considered prior to issuance of any sewer flow allocation. City staff recommends approval of the special use permit and site plan based on findings of fact A through G being found in the affirmative with the conditions identified in the staff report.

Mr. Keys wanted to know if the TIA included the multi-family development proposed at the corner of Piney Green Road and New Bern Highway. Andrew Topp with MAB came up and explained to the board members that the TIA did include the proposed multi-family project. There was some discussion on the traffic pattern going in and out of the dealership and how it would impact the proposed multi-family project at Piney Green Road.

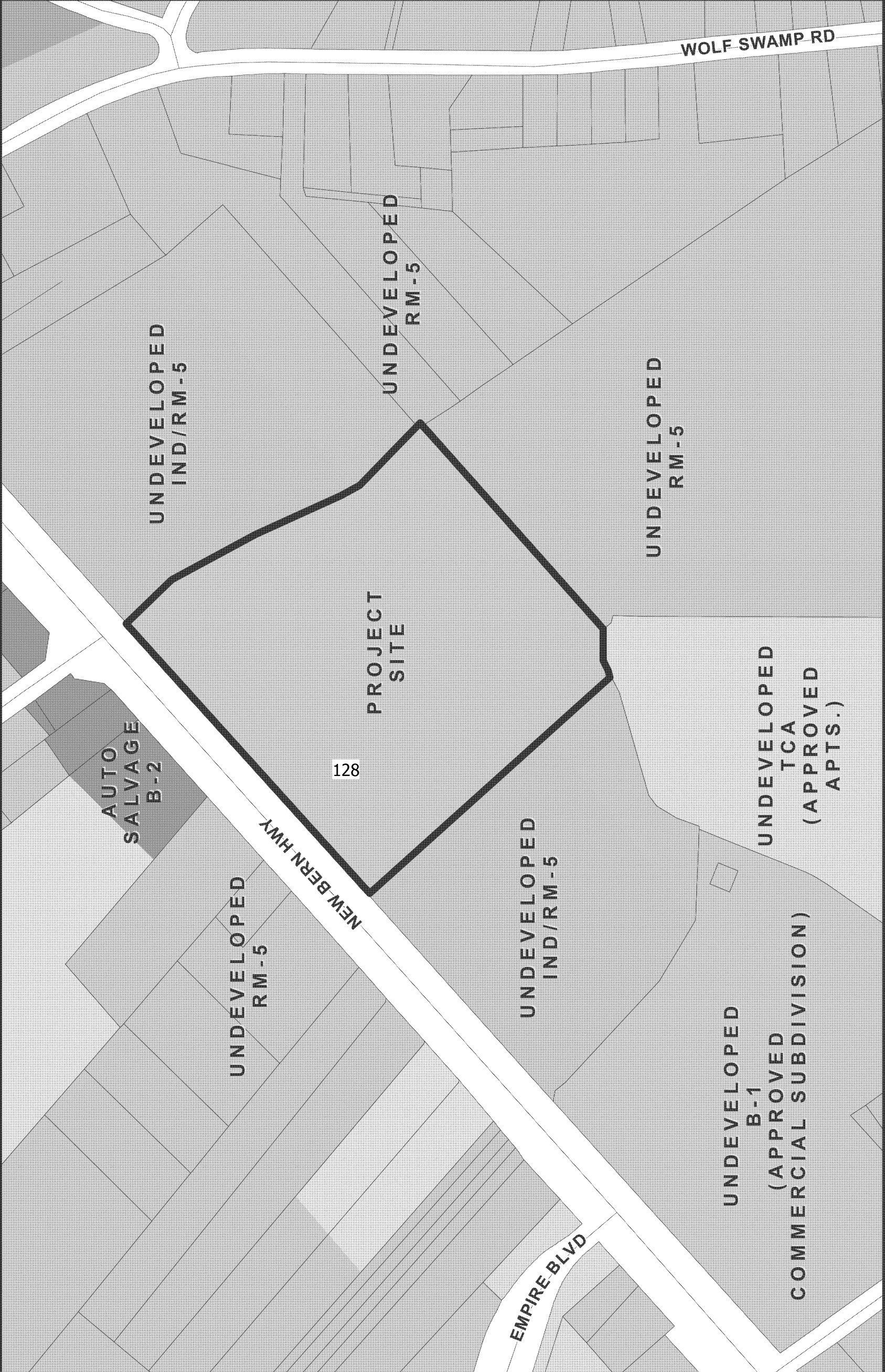
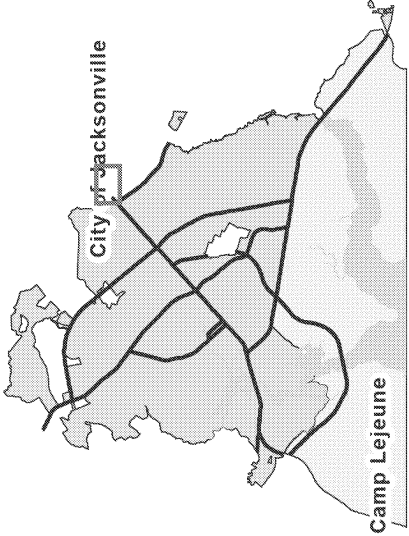
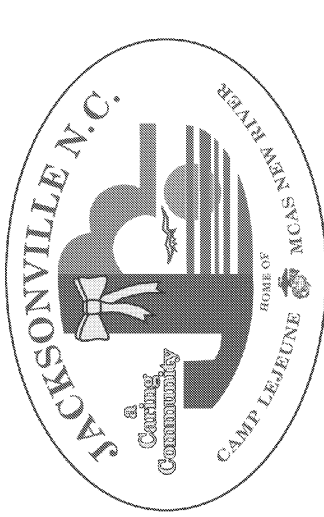
Vice Chairperson Sandra Wyrick moved to approve special use permit and site plan with findings of fact A through G being found in the affirmative and that the developer be advised that building permits and certificate of occupancies may be withheld until water and sewer service is there. Homer Spring seconded the motion.

The motion to approve special use permit and site plan with findings of fact A through G being found in the affirmative and that the developer be advised that building permits and certificate of occupancies may be withheld until water and sewer service is there was approved by the Board Members present. The motion was voted for by Vice Chairperson Sandra Wyrick, Thomasine Moore, Chuck Quinn, Homer Spring, and Theresa VanderVere and against by Pauline Joos, and Alfred Keyes.

Exhibit

C

Stevenson Toyota

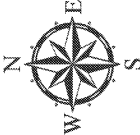


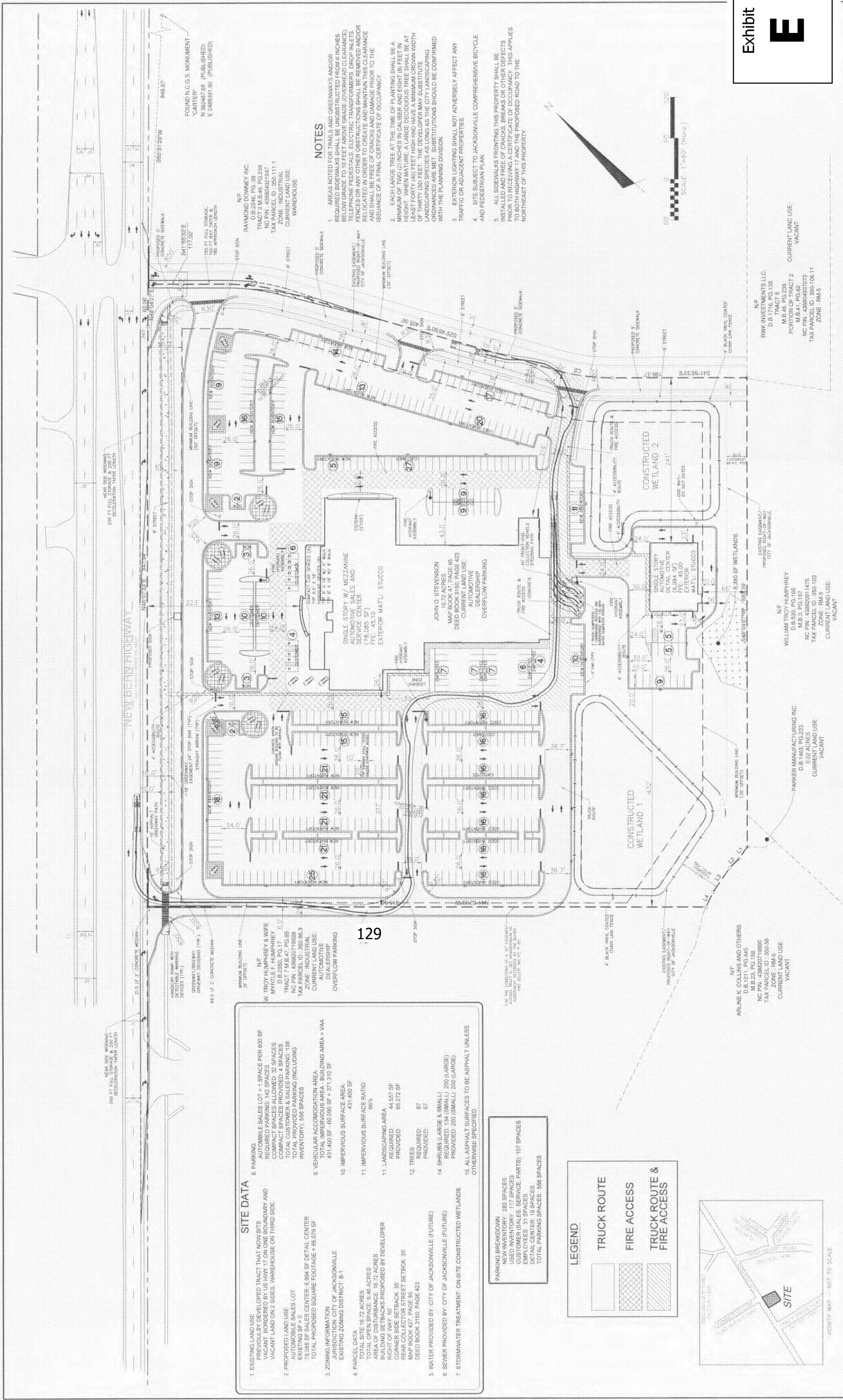
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Zoning TV Colors
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Exhibit
D

Disclaimer: This Map is intended to use for planning purposes only. City of Jacksonville or its individual departments are not liable for any data inaccuracies. Once again this map should not be used for any legal boundary determinations and data displayed on this map is collected from various different sources.





Exhibit



DATE: 07-JAN-13

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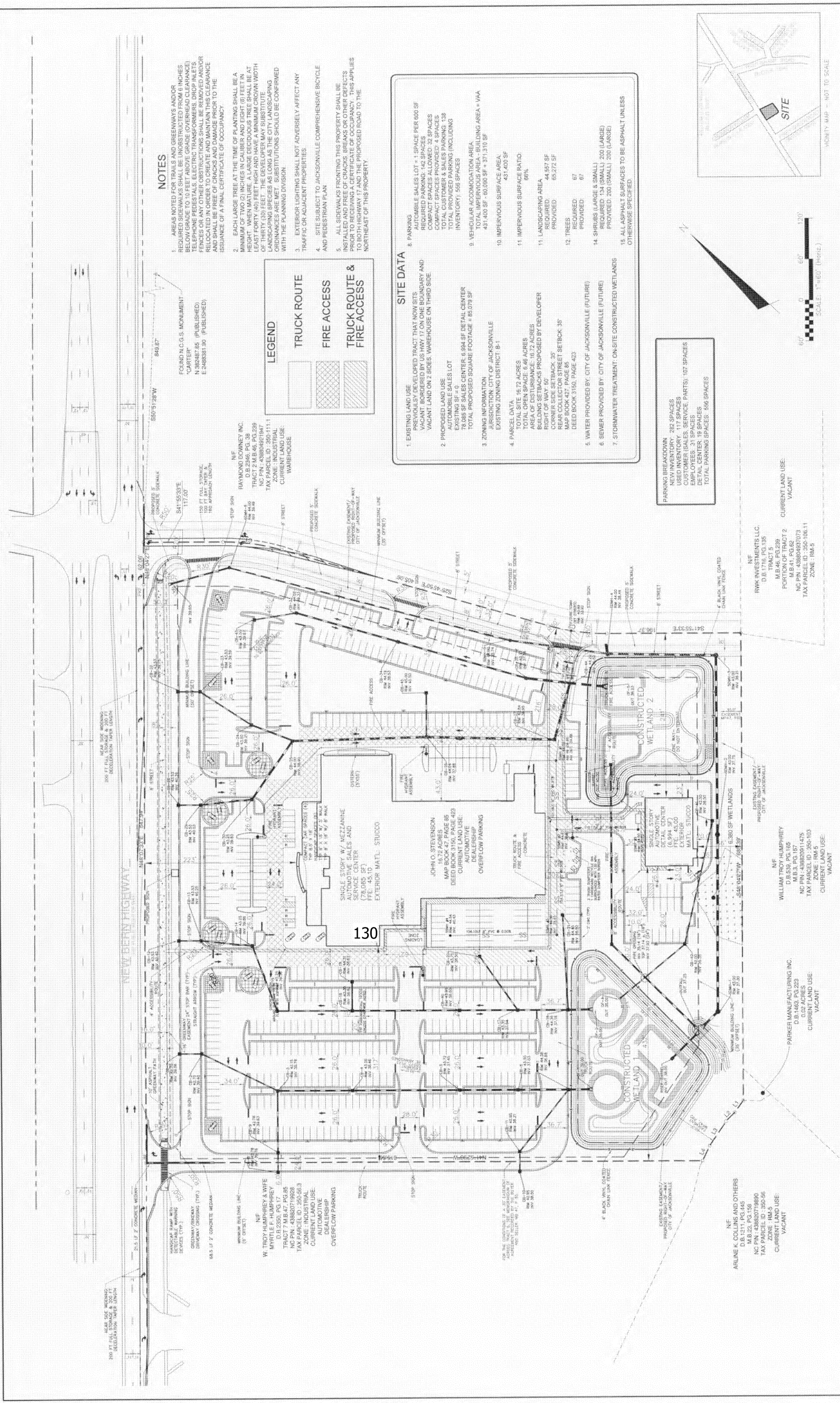
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Request for City Council Action

**Consent
Agenda
Item:** 9
Date: 3/8/2011

Subject: Voluntary Annexation Petition – Mai Property (Bailey & Associates) – Hickory Road - .44-acre tract

Department: City Clerk's Office

Presented by: Carmen K. Miracle, City Clerk

Presentation: No

Issue Statement

On behalf of Phillip and Claudia Mai, Bailey & Associate has submitted a voluntary annexation petition for a .44-acre tract that is contiguous to the current City limit boundaries. The site is located along Hickory Road adjacent to the Tractor Supply Store.

The site is proposed to provide additional parking facilities for a 6,000 square foot commercial development adjacent to this parcel and fronting on US Hwy 258. The commercial parcels are already located within City limits and are the proposed site of a future IHOP restaurant and tenant spaces.

The first step in the Voluntary Annexation process is to pass a Resolution directing the City Clerk to investigate the sufficiency of the petition.

Financial Impact

Financial impacts will be presented with the Public Hearing agenda item.

Action Needed

Consider Voluntary Annexation Petition

Recommendation

Staff recommends Council move to adopt the Resolution as presented.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Annexation Petition
- B Proposed Resolution
- C Location Map



Staff Report

Consent
Agenda
Item:

9

Voluntary Annexation Petition Mai Property (Bailey & Associates) Hickory Road - .44 – Acre Tract

Introduction

The area proposed for annexation is located within the City's Extra Territorial Jurisdiction (ETJ) and is contiguous to the current City limits. The site is located on Hickory Road adjacent to the Tractor Supply Store.

The site is proposed to provide additional parking facilities for a 6,000 square foot commercial development fronting this site on US Hwy 258. These commercial parcels are already located within City limits and are the proposed site of a future IHOP restaurant and tenant spaces.

The commercial development project plans are scheduled for Planning Board review at their March meeting, with potential Council review in April.

Procedural History

- March 8, 2011 – Council will consideration a Resolution directing the City Clerk to investigate the sufficiency of the voluntary annexation petition.
- March 22, 2011 – Proposed date for Council to consider a Resolution scheduling a future Public Hearing.
- April 5, 2011 – Proposed Date to conduct a Public Hearing and for Council to consider adopting the Annexation Ordinance.
- April 30, 2011 – Proposed Effective Date of Annexation Ordinance.

Stakeholders

- Phillip and Claudia Mai - Property owners/petitioner
- Bailey & Associates – Developers
- Citizens of Jacksonville

Options

- Pass the Resolution Directing Staff to Investigate Sufficiency of the Voluntary Annexation Petition – **RECOMMENDED.**

Pros: The site is contiguous to the current corporate limits and is proposed for future commercial development;

Cons: None

- Deny the Resolution Directing Staff Investigate the Sufficiency of the Petition –
Pros: None
Cons: This action would conflict with past actions associated with contiguous property proposed for development;
- Defer Consideration – Should Council desire additional information, provide direction to staff on the specific information Council would like to receive.

PETITION FOR ANNEXATION

DATE February 9, 2011

TO THE CITY COUNCIL OF THE CITY OF JACKSONVILLE, NORTH CAROLINA:

1. I/We, the undersigned owner(s) of real property hereinafter described, respectfully request that the area described below be annexed to the City of Jacksonville, in accordance with the provisions of Section 160A-31 of the General Statutes of North Carolina.
2. The area to be annexed is contiguous to the corporate limits of the City of Jacksonville, North Carolina, and the boundaries of such territories are as described below.

OWNER SIGNATURE(S), NAME(S) . PRINTED OR TYPED, AND ADDRESS(ES)

X Phillip J. Mai
Phillip J. Mai

X Claudia Mai
Claudia Mai

Phillip & Claudia Mai

1993 Haws Run Road

Maple Hill, NC 28454

PROPERTY DESCRIPTION

SEE ATTACHED

Attachment

A

RESOLUTION (2011-)

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G. S. 160A-31

MAI PROPERTY – BAILEY & ASSOCIATES
.44 ACRE TRACT

WHEREAS, a petition requesting annexation of an area described in said petition has been received on March 8, 2011 by the Jacksonville City Council; and

WHEREAS, G. S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Jacksonville deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Jacksonville that:

The City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify to the City Council the result of her investigation.

Adopted by the Jacksonville City Council in regular session this 8th day of March, 2011.

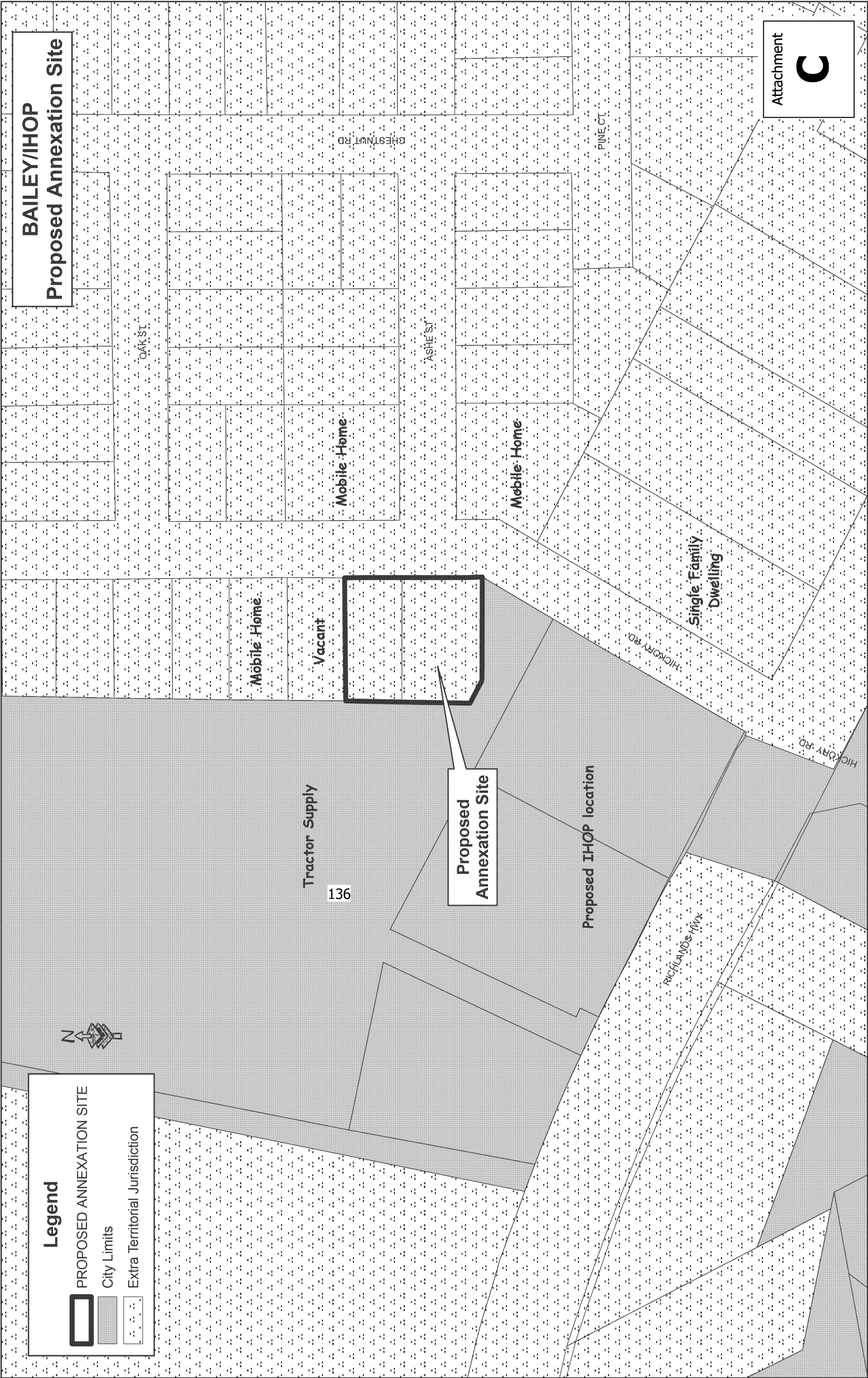
Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk

Attachment

B





Request for City Council Action

**Consent
Agenda
Item:** **10**
Date: 3/8/2011

Subject: Voluntary Annexation Petition – John Stevenson-(Toyota) – 3124 New Bern Highway – 16.72-acres

Department: City Clerk's Office

Presented by: Carmen K. Miracle, City Clerk

Presentation: No

Issue Statement

John O. Stevenson has submitted a voluntary annexation petition for a 16.72-acre tract located in the Extra Territorial Jurisdiction and contiguous to the current City limit boundaries.

The parcel is located at 3124 New Bern Hwy and is the site for future development of an 85,079 square foot automobile sales center.

The first step in the Voluntary Annexation process is to pass a Resolution directing the City Clerk to investigate the sufficiency of the petition.

Financial Impact

Financial impacts will be presented with the Public Hearing agenda item.

Action Needed

Consider Voluntary Annexation Petition

Recommendation

Staff recommends Council move to adopt the Resolution as presented.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Annexation Petition
- B Proposed Resolution
- C Location Map



Staff Report

**Consent
Agenda
Item: 10**

Voluntary Annexation Petition

John Stevenson-(Toyota) – 3124 New Bern Highway – 16.72-acres

Introduction

The area proposed for annexation is located within the City's Extra Territorial Jurisdiction (ETJ) and is contiguous to the current City limits. The parcel is located at 3124 New Bern Hwy and is the site for future development of an 85,079 square foot automobile sales center.

Procedural History

- March 8, 2011 – Council will consideration a Resolution directing the City Clerk to investigate the sufficiency of the voluntary annexation petition. Also on the March 8, 2011 agenda is a public hearing for Council to consider a Special Use Permit , Site plan and Sewer Allocation Request for the Automobile sales center project.
- March 22, 2011 – Proposed date for Council to consider a Resolution scheduling a future Public Hearing.
- April 5, 2011 – Proposed Date to conduct a Public Hearing and for Council to consider adopting the Annexation Ordinance.
- April 30, 2011 – Proposed Effective Date of Annexation Ordinance.

Stakeholders

- John O. Stevenson – Property owner/petitioner
- Citizens of Jacksonville

Options

- Pass the Resolution Directing Staff to Investigate Sufficiency of the Voluntary Annexation Petition – **RECOMMENDED**.
Pros: The site is contiguous to the current corporate limits and is proposed for future commercial development;
Cons: None
- Deny the Resolution Directing Staff Investigate the Sufficiency of the Petition –
Pros: None
Cons: This action would conflict with past actions associated with contiguous property proposed for development;
- Defer Consideration – Should Council desire additional information, provide direction to staff on the specific information Council would like to receive.

Toyota

PETITION FOR ANNEXATION

DATE 12/13/10

TO THE CITY COUNCIL OF THE CITY OF JACKSONVILLE, NORTH CAROLINA:

1. I/We, the undersigned owner(s) of real property hereinafter described, respectfully request that the area described below be annexed to the City of Jacksonville, in accordance with the provisions of Section 160A-31 of the General Statutes of North Carolina.
2. The area to be annexed is contiguous to the corporate limits of the City of Jacksonville, North Carolina, and the boundaries of such territories are as described below.

OWNER SIGNATURE(S), NAME(S) . PRINTED OR TYPED, AND ADDRESS(ES)

John. O. Stevenson
2325 N. Marine Blvd
Jacksonville NC 28546
[Signature]

PROPERTY DESCRIPTION

Lying and being situate in Onslow County, North Carolina, and being more particularly described as follows:

Being all of TRACT 6 containing 16.72 acres as shown on that certain map or plat thereof entitled, "RECOMBINATION PLAT FOR: RWK INVESTMENTS, LLC., WILLIAM TROY HUMPHREY AND PARKER MANUFACTURING, INC." prepared by Lanier Surveying Company, dated November 5, 2004, and recorded in MAP BOOK 47, PAGE 85, SLIDE L-464, in the Office of the Register of Deeds of Onslow County, North Carolina.

END SCHEDULE A

Attachment

A

RESOLUTION (2011-)

RESOLUTION DIRECTING THE CITY CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G. S. 160A-31

STEVENSON PROPERTY – 3124 NEW BERN HIGHWAY
16.72-ACRES

WHEREAS, a petition requesting annexation of an area described in said petition has been received on March 8, 2011 by the Jacksonville City Council; and

WHEREAS, G. S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Jacksonville deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Jacksonville that:

The City Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify to the City Council the result of her investigation.

Adopted by the Jacksonville City Council in regular session this 8th day of March, 2011.

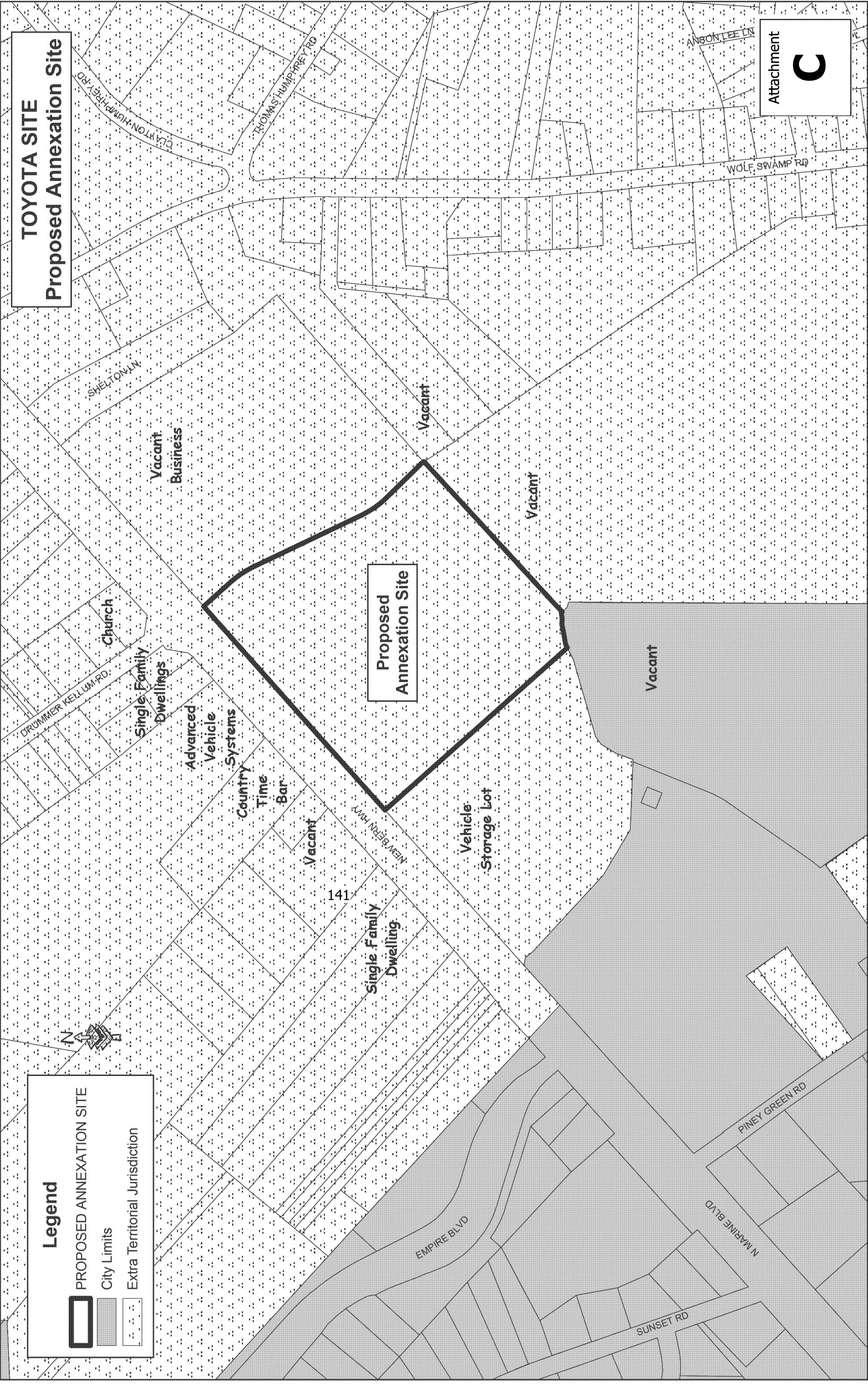
Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk

Attachment

B





Request for City Council Action

**Consent
Agenda
Item:** **11**
Date: 3/8/2011

Subject: Agreement for Transportation Improvements Plan (TIP) Project-W-5147, Installation of Two Crosswalks along Western Blvd

Department: City Manager's Office

Presented by: Ron Massey, Assistant City Manager

Presentation: No

Issue Statement

The N.C. Department of Transportation (NCDOT) has plans to install crosswalks at two intersections: NC 53 (Western) and SR 1403 (Country Club) and US17 (Marine Blvd) and NC 53 (Western). The contract to construct this project was advertised in February 2011 with the expectation that a contract would be awarded within the coming months. As such, NCDOT has submitted the attached Agreement requiring the City to pay for their portion of the cost of such improvements at the start of the project rather than as a reimbursement.

The City has set aside funds for this project in the FY11 Capital Improvement Plan (CIP) in the amount of \$271,000. The scope of work has been reduced from three intersections to two due to environmental concerns at Gum Branch and Marine Blvd. and the cost estimate for this project has increased. Therefore, staff is requesting that the CIP be amended to reflect the reduction in the scope of work as well as the revised estimate required by NCDOT.

Financial Impact

Appropriate an additional \$34,000 to the Capital Project Budget.

Action Needed

Consideration of the proposed Agreement, Budget Amendment and CIP Amendment.

Recommendation

Staff recommends that City Council move to authorize the City Manager or his representative to sign the Agreement and approve the Budget and CIP Amendments as presented.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Transportation Improvement Project Agreement
- B Budget Amendment
- C CIP Amendment



Staff Report

Consent
Agenda
Item: **11**

Agreement for Transportation Improvements Plan (TIP) Project-W-5147, Installation of Two Crosswalks along NC 53 (Western Blvd)

Introduction

The N.C. Department of Transportation (NCDOT) has plans to install crosswalks at two intersections: NC 53 (Western) and SR 1403 (Country Club) and US17 (Marine Blvd) and NC 53 (Western). The contract to construct this project was advertised in February 2011 with the expectation that a contract would be awarded within the coming months. As such, NCDOT has submitted the attached Agreement requiring the City to pay their portion of the cost for such improvements at the start of the project rather than as a reimbursement.

The City has included this project in the FY11 Capital Improvement Plan (CIP) and has allocated local funds in the amount of \$271,000. The scope of work has been reduced from three intersections to two due to environmental concerns at the Gum Branch and Marine Blvd intersection and the cost estimate for this project has increased because all four crossings are included at the Western and Gum Branch intersection. Therefore, staff is requesting that the CIP be amended to reflect the reduction in the scope of work as well as the revised estimate required by NCDOT.

Stakeholders

- City Residents
- NCDOT
- Traveling Motorists

Options

Option #1: Approve the Agreement, Budget Amendment, and CIP Amendment as presented. **(RECOMMENDED)**

Pros: Proceeding forward with this project would allow for increased pedestrian safety at these congested intersections.

Cons: Increase in project cost.

Option #2: Deny staff's request.

Pros: Re-appropriate existing funds to another project.

Cons: Pedestrian safety would continue to be issue at these intersections.

NORTH CAROLINA

**TRANSPORTATION IMPROVEMENT PROJECT –
HAZARD ELIMINATION MUNICIPAL AGREEMENT**

ONslow COUNTY

DATE: 1/24/2011

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

TIP #: W-5147

EB-4013

AND

WBS Elements: 45362.3.1
33971.2.1

CITY OF JACKSONVILLE

THIS MUNICIPAL AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Jacksonville, a local government entity, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Department has plans to make certain street and highway constructions and improvements within the Municipality under Project W-5147, in Onslow County; and,

WHEREAS, the Department and the Municipality have agreed that the municipal limits, as of the date of the awarding of the contract for the construction of the above-mentioned project, are to be used in determining the duties, responsibilities, rights and legal obligations of the parties hereto for the purposes of this Agreement; and,

WHEREAS, this Agreement is made under the authority granted to the Department by the North Carolina General Assembly, including but not limited to, the following applicable legislation: General Statutes of North Carolina, Section 136-66.1, Section 160A-296 and 297, Section 136-18, and Section 20-169, to participate in the planning and construction of a Project approved by the Board of Transportation for the safe and efficient utilization of transportation systems for the public good; and,

WHEREAS, the parties to this Agreement have approved the construction of said Project with cost participation and responsibilities for the Project as hereinafter set out.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

SCOPE OF THE PROJECT

1. The Project consists of the installation of crosswalks at the following intersections in Jacksonville:
 - Intersection of NC 53 (Western Blvd.) and SR 1403 (Country Club Road)
 - Intersection of US 17 (Marine Blvd.) and NC 53 (Western Blvd.).

PLANNING, DESIGN AND RIGHT OF WAY

2. The Department shall prepare the environmental and/or planning document, and obtain any environmental permits needed to construct the Project, and prepare the Project plans and specifications needed to construct the Project. All work shall be done in accordance with departmental standards, specifications, policies and procedures.
3. The Department shall be responsible for acquiring any needed right of way required for the Project. Acquisition of right of way shall be accomplished in accordance with the policies and procedures set forth in the North Carolina Right of Way Manual.

UTILITIES

4. It is understood that there are no municipally-owned water and sewer lines to be adjusted or relocated at this time. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer lines a separate Utility Agreement will be prepared at the appropriate time.

CONSTRUCTION AND MAINTENANCE

5. The Department shall construct, or cause to be constructed, the Project in accordance with the plans and specifications of said Project as filed with, and approved by, the Department. The Department shall administer the construction contract for said Project.
6. It is further agreed that upon completion of the Project, the Department shall be responsible for all traffic operating controls and devices which shall be established, enforced, and installed and maintained in accordance with the North Carolina General Statutes, the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, the latest edition of the "Policy on Street and Driveway Access to North Carolina Highways", and departmental criteria.

7. Upon completion of the Project, the improvement(s) shall be a part of the State Highway System and owned and maintained by the Department.

FUNDING

8. The Municipality shall reimburse the Department for project costs in the set amount of \$305,000. The Municipality shall submit a check for \$305,000 to the Department's Division Engineer upon execution of the Agreement by the Municipality. All costs over \$305,000 shall be paid for with Hazard Elimination and Bike/Pedestrian funds through the Department. The Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23.
9. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment herein above provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1 until such time as the Department has received payment in full under the reimbursement terms set forth in this Agreement. A late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23.

ADDITIONAL PROVISIONS

10. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this agreement, that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency.
11. To the extent authorized by state and federal claims statutes, each party shall be responsible for its respective actions under the terms of this agreement and save harmless the other party from any claims arising as a result of such actions.
12. All terms of this Agreement are subject to available departmental funding and fiscal constraints.

13. By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED upon that the approval of the Project by the Department is subject to the conditions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S. ATTEST: CITY OF JACKSONVILLE
BY: _____ BY: _____
TITLE: _____ TITLE: _____
DATE: _____ DATE: _____

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Approved by _____ of the local governing body of the City of Jacksonville as
attested to by the signature of _____ Clerk of said governing body on
_____(Date)

(SEAL)

This Agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

BY: _____
(FINANCE OFFICER)

Federal Tax Identification Number

Remittance Address:
City of Jacksonville

DEPARTMENT OF TRANSPORTATION

BY: _____

DATE: _____

APPROVED BY BOARD OF TRANSPORTATION ITEM O: _____ (Date)

ORDINANCE (2011-)

AN ORDINANCE AMENDING THE FISCAL YEAR 2010 BUDGET

BE IT ORDAINED by the City Council of the City of Jacksonville, North Carolina that the following amendment to the Fiscal Year 2011 General Fund and NCDOT Pedestrian Improvements project budgets is hereby enacted:

GENERAL FUND

REVENUES	BUDGET	CHANGE	TOTAL
POWELL BILL FUND BALANCE	1,467,388	34,000	1,501,388
TOTAL ADJUSTMENTS		34,000	
TOTAL FUND REVENUES	45,048,608	34,000	45,082,608

EXPENDITURES	BUDGET	CHANGE	TOTAL
TRANSFER TO CAPITAL PROJECTS	554,845	34,000	588,845
TOTAL ADJUSTMENTS		34,000	
TOTAL FUND EXPENDITURES	45,048,608	34,000	45,082,608

NCDOT PARTNERED PEDESTRIAN IMPROVEMENTS GF1107

REVENUES	BUDGET	CHANGE	TOTAL
TRANSFER FROM GENERAL FUND	271,000	34,000	305,000
TOTAL ADJUSTMENTS		34,000	
TOTAL REVENUES	271,000	34,000	305,000

EXPENDITURES	BUDGET	CHANGE	TOTAL
PROJECT EXPENDITURES	271,000	34,000	305,000
TOTAL ADJUSTMENTS		34,000	
TOTAL EXPENDITURES	271,000	34,000	305,000

The purpose of this amendment is to:

The purpose of this budget amendment is to appropriate additional Powell Bill funding to the NCDOT Partnered Pedestrian Improvements project as per the City's agreement with NCDOT.

This ordinance shall be effective upon its adoption.

ADOPTED by the Jacksonville City Council in regular session this 8th day of March 2011.

ATTEST:

Sammy Phillips, Mayor

Carmen K. Miracle, City Clerk

Attachment

B

Ordinance 2011 – (x)

**An Ordinance Amending the 2010/2011 City of Jacksonville
Capital Improvement Plan (CIP) Adopted by Council March 8, 2011**

BE IT ORDAINED by the City Council of the City of Jacksonville, North Carolina, that the Capital Improvement Plan (CIP) is hereby amended as follows:

1) NCOT Pedestrian Improvements Project GF1107:

The CIP is amended by Budget Ordinance #2011 - (x) to adjust the NCDOT Partnered Pedestrians Improvements project funding amount. With the adoption of the FY11 CIP, the City set aside \$271,000 for FY11 estimated project costs. Total project costs for FY11 now total \$305,000.

This ordinance shall be in full force and effective upon its adoption.

Adopted by the Jacksonville City Council in regular session on this 8th day of March 2011.

Sammy Phillips, Mayor

ATTEST:

Carmen K. Miracle, City Clerk

Attachment

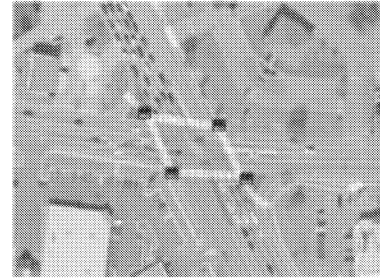
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Capital Improvement Plan

City of Jacksonville, NC

2011 *thru* 2015

Project # **SK-11 GF1107**
 Project Name **NCDOT Partnered Ped Improvements**



Type	Improvement	Department	Public Services
Useful Life	20	Contact	Wally Hansen
Category	Sidewalks	Priority	H High Priority
Part of Master Plan	Y	Growth Related	N
Externally Mandated	N	Service Related	Y

Description

This project includes upgrades to two intersections to improve pedestrian safety. Recommended treatments include: marked crosswalks, advance stop lines, curb ramps, median islands, reduced curb radius, turn lane islands, and countdown signals.

This project will be a joint effort between the NCDOT and the City. Total project cost is estimated to be \$1,079,711, of which NCDOT will fund \$774,711 and the City will provide \$305,000 in funding. The two pedestrian improvement crosswalks include Western/Country Club and Western/US 17 Highway.

Update: This project was approved in FY11 and originally included upgrades to three intersections to improve pedestrian safety. However, the overall scope of this project has been reduced resulting in the removal of the intersection of Gum Branch-Bell Fork/US 17 Highway. The City has also received notification from NCDOT that the cost estimate for this project has increased thereby increasing the City's share of funding an additional \$34,000. Bids are expected to be opened in February 2011.

Justification

This project will improve pedestrian safety and improve connectivity to commercial destinations and the surrounding residential area. As well as capitalize upon the availability of external resources for project funding.

Expenditures	Prior	2011	2012	2013	2014	2015	Future	Total
Construction			1,079,711					1,079,711
Total			1,079,711					1,079,711

Funding Sources	Prior	2011	2012	2013	2014	2015	Future	Total
NCDOT Grant			774,711					774,711
Powell Bill		305,000						305,000
Total		305,000	774,711					1,079,711

Budget Impact/Other

Monday, February 28, 2011



Request for City Council Action

**Consent
Agenda
Item:**
Date:

12

3/8/2011

Subject: Preliminary and General Plan – Emerson Park, Section II at Williamsburg Plantation
Department: Development Services
Presented by: Jeremy B. Smith, Planner
Presentation: Yes

Issue Statement

John L. Pierce and Associates has submitted a preliminary and general plan request for the subdivision of 54.48 acres being divided into 85 lots (single family). City Staff has reviewed the preliminary and general plan and has determined that in order to meet all applicable City standards a second form of access will be required before some houses can be constructed.

As proposed this project will impact the City's Sewer Allocation Policy. Sewer Allocation requests will be processed in accordance with the adopted policy.

Financial Impact

None

Action Needed

Consideration of the preliminary and general plan

Recommendation

The Planning Board and City staff recommend Council move to approve the preliminary and general plan conditioned upon: 1) the plans are modified to include a second form of ingress for emergency vehicles; and 2) that until this access is installed, permits will be withheld for all homes beyond 750 feet from two forms of access.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Draft Planning Board Minutes, February 14, 2011
- B Zoning and Land Use Map
- C Approved Emerson Park Preliminary and General Plan - March 8, 2008
- D Proposed Emerson Park, Section II Preliminary and General Plan



Staff Report

**Consent
Agenda
Item:**

12

Preliminary and General Plan – Emerson Park, Section II at Williamsburg Plantation

John L. Pierce and Associates has submitted a preliminary and general plan request for the subdivision of 54.48 acres being divided into 85 lots (single family). City Staff has reviewed the preliminary and general plan and has determined that in order to meet all applicable City standards a second form of access will be required before some houses can be constructed.

As proposed this project will impact the City's Sewer Allocation Policy. Sewer Allocation requests will be processed in accordance with the adopted policy.

Procedural History

- On July 17, 2007 City Council approved the preliminary and general plans for Emerson Park, Sections I and II.
- On March 4, 2008 City Council approved a modification to the preliminary and general plan for Emerson Park, Sections I and II. The modification consolidated the number of stormwater facilities for the development.
- In June 2008 the City Manager approved a minor modification to the preliminary and general plan for Emerson Park, Sections I and II. The modification showed an adjustment to the sewer mains in a portion of this development.
- October 2010 the connection between Sections I & II (Armistead Way) was abandoned.
- On February 14, 2011 Planning Board recommended approval of this request which is essentially a modification to Section II.
- On March 8, 2011 City Council will consider this request.

Stakeholders

- John L. Pierce and Associates – Applicant's Land Planner/Surveyor
- John Koenig, Inc. - Property Owner/Developer
- Residents of Williamsburg Plantation – Adjacent property owners

Zoning Assessment

The property is located within the City Limits zoned Residential Single-Family 7 (RS-7). It is bordered to the north and west by Emerson Park, Section I, zoned RS-7; to north by Kensington Park, zoned Residential Multi family 6 (RM-6), to the south by undeveloped property, zoned Residential Single-Family 5 (RS-5) and RM-6; and to the east, across proposed Western Boulevard by single family homes zoned Residential 7 (R-7).

Land Use Assessment

The subject parcel is identified as "Urban Transition" in the current Land Use Plan component of the City of Jacksonville's CAMA plan. The Land Use Plan describes tracts within the "urban transition" areas as presently being developed for urban purposes, or will be developed in the next five to ten years. The urban transition areas include mixed land uses such as residential, commercial, institutional, and other uses approaching high to moderate densities. The proposed CAMA Land Use Plan Update recommends "Low Density Residential" for this area. The Land Use Plan describes parcels within the "low density residential" areas as areas primarily single-family detached residential development with home occupations, schools, churches and other non-profit organizations. Recommended lot sizes are between 10,000 square feet to 40,000 square feet with an average of one (1) to five (5) dwelling units per acre.

The City's Growth Management Element recommends "Low Density Residential" as well. The description of the land use is the same as that of the CAMA Land Use Plan Update. Recommended lot sizes are between 10,000 square feet to 40,000 square feet with an average of two (2) dwelling units per acre.

Staff has reviewed the CAMA Land Use Plan Update and the Growth Management Element and has determined that the proposed land use for the area is consistent with the adopted plans. The submitted plan show a density that is less than 2 units per acre and average lots sizes of 18,550 square feet.

Sewer Flow Allocation Assessment

The proposed development is located within the City limits and will impact the City's Sewer Allocation Policy. The developer intends to utilize City water and sewer; therefore, this development will require sewer flow allocation. Sewer Allocation requests will be processed in accordance with the adopted policy.

Street Connectivity Assessment

When Emerson Park, Sections I and II were approved on July 17, 2007 and March 4, 2008 there was a proposed connection on Armistead Way. The final plat for Section I was approved October 22, 2008, showing the connection of Armistead Way to future Emerson Park Section II. The new proposal for Emerson Park, Section II does not depict the connection of the two sections with Armistead Way as it was abandoned in October 2010. Since this connection is no longer being proposed, it leaves a dead end street in Sections I

and II. Therefore, staff will work with the developer to secure additional connections to Section I and has recommended that approval of Section II be conditioned upon the developer providing a second form of ingress/egress on the plans and prior to permitting construction of homes on these lots, the access shall be installed.

Recreation/Open Space Assessment

The developer dedicated 17.01 to the City of Jacksonville for recreation area as part of the Williamsburg Plantation Master Plan approval.

Traffic Assessment

A Transportation Impact Analysis (TIA) was accepted the City and NCDOT in July 2002 for the entire Williamsburg Plantation Master Plan. A second TIA for Phase II of Williamsburg Plantation was accepted by the City in September 2009. Emerson Park Section I and II were both originally approved under the Phase I TIA which identified the following improvements:

- At the intersection of Gum Branch Road at Western Boulevard (completed)
 - Convert one of the southbound Western Boulevard left turn lanes into a through lane;
 - Provide a left-turn lane and a through-right lane on the proposed northbound Western Boulevard approach;
 - Provide a westbound left-turn lane on Gum Branch Road by restriping the two-way left-turn lane
 - Stripe the southbound Williamsburg Parkway approach to provide a left-turn lane and through-right lane;
- At the intersection of Gum Branch Road at Williamsburg Parkway (not completed)
 - Install a traffic signal when warranted (approved and required for Williamsburg Place Apartment as well);

The signal at the intersection of Williamsburg Parkway and Gum Branch Road has been warranted and is permitted for construction.

Options

- A.** Approve the Preliminary and General Plan as requested by the applicant.
 - Pros: None
 - Cons: The Preliminary and General Plan does not meet all applicable City Standards. Approval would reduce and/or prevent the ability of emergency service vehicles to access both Sections of Emerson Park
- B.** Approve the Preliminary and General Plan with conditions. **(RECOMMENDED)**
 - Pros: Will ensure that maximum dead end limitations are not exceeded and that there are two forms of access for emergency response personnel.

- Cons: The Preliminary and General Plan does not meet all applicable City Standards. Approval would reduce and/or prevent the ability of emergency service vehicles to access both Sections of Emerson Park.

Condition:

- 1) Modify the Preliminary and General Plan creating a second form of ingress/egress with maximum dead end lengths at 750 feet or less; and**
- 2) No building permits will be issued for homes further than 750 feet away from two forms of ingress/egress.**

C. Deny the Preliminary and General Plan.

- Pros: The Preliminary and General Plan does not meet all applicable City Standards.
- Cons: None

D. Defer Consideration of the Preliminary and General Plan.

- Pros: Deferral would allow the developer and staff to address any concerns or questions the City Council may have.
- Cons: None



Planning Board Minutes – February 14, 2011

Consent
Agenda
Item:

12

Preliminary and General Plan – Emerson Park, Section II at Williamsburg Plantation

John L. Pierce & Associates has submitted a preliminary and general plan request for the subdivision of 54.48 acres being divided into 85 lots (single family). City staff has reviewed the preliminary and general plan and has determined that in order to meet all applicable City standards a second form of access will be required before some houses can be constructed.

As proposed this project will impact the City's Sewer Allocation Policy. Sewer Allocation requests will be processed in accordance with the adopted policy.

City staff recommends approval of the preliminary and general plan conditioned upon the plans be modified to include a second form of ingress for emergency vehicles and that until this access is installed, permits will be withheld for all homes beyond 750 feet from two forms of access.

There was some discussion concerning the second access into Emerson Park II.

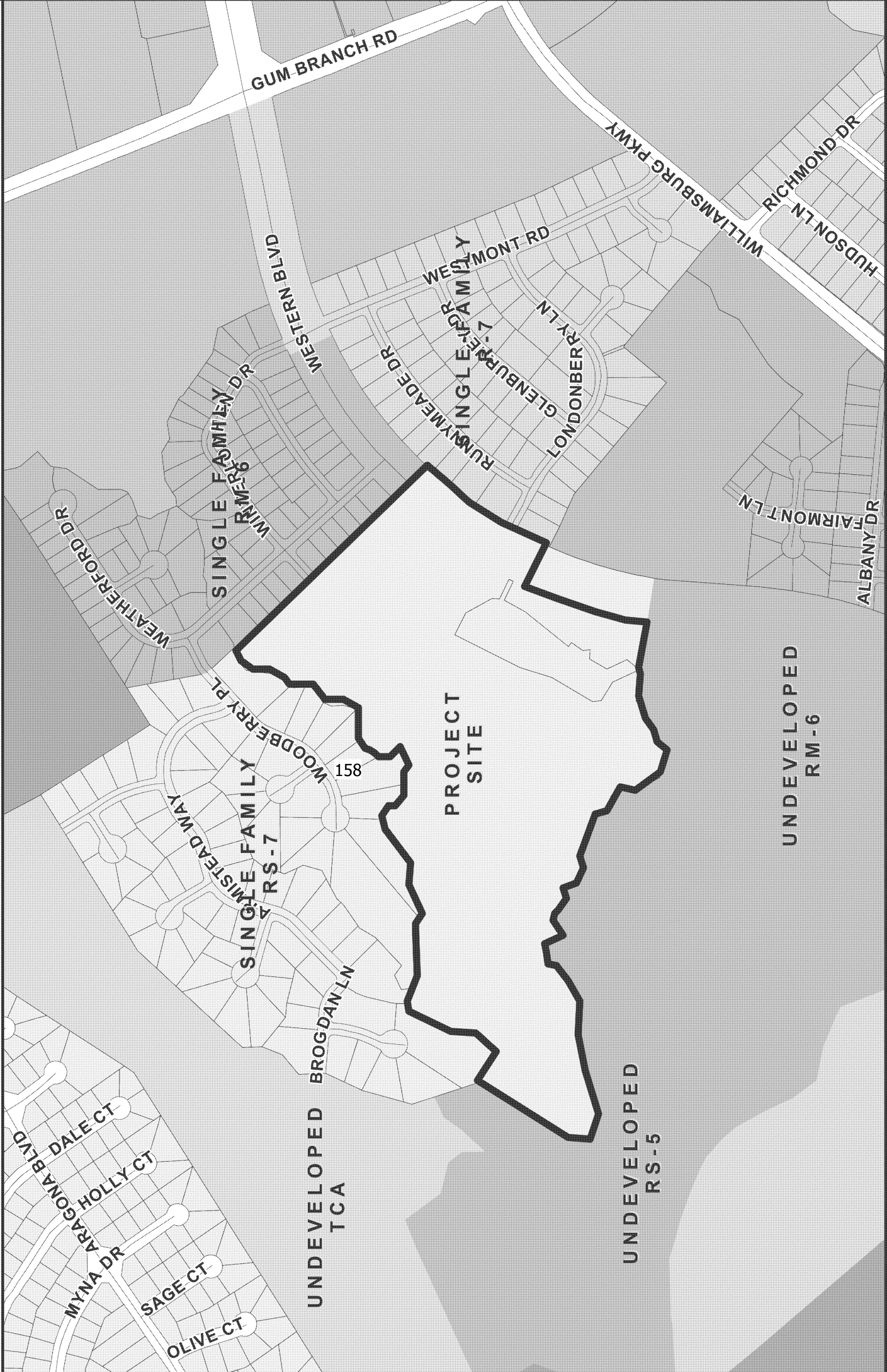
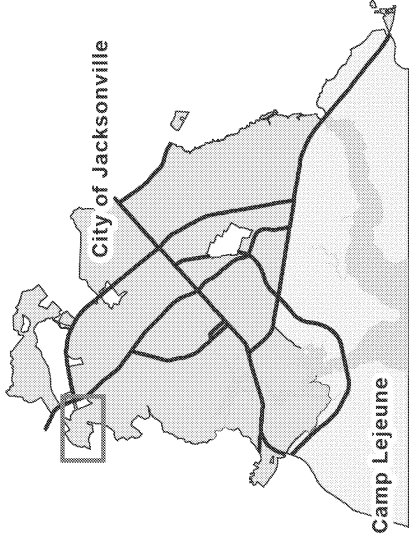
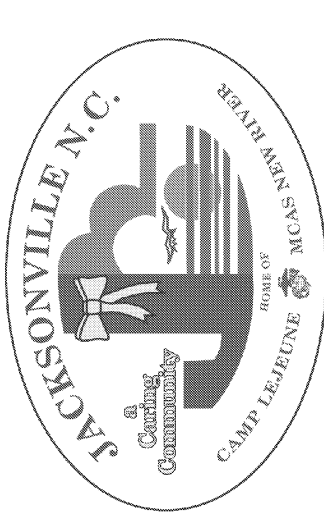
Chuck Quinn moved to approve the Preliminary & General Plan with the conditions cited by staff to be included in that. Thomasine Moore seconded the motion.

The motion to approve the Preliminary & General Plan with the conditions cited by staff to be included in that was approved by the Board Members present. The motion was voted for by Vice Chairperson Sandra Wyrick, Alfred Keyes, Thomasine Moore, Chuck Quinn, and Theresa VanderVere and against by Pauline Joos, and Homer Spring.

Attachment

A

Emerson Park, Section 2



Legend

Centerlines

Parcels

Zoning TV Colors

Zones

IND

CU-B

B-1

CU-B-1

B-2

CU-B-2

O&I

CU-O&I

TCA

CU-TCA

CBD

OMU

NB

CU-NB

R-O

RA-20

CU-RA-20

RS-12

RS-10

R-7

RS-7

RS-6

RM-6

RS-5

RM-5

CU-RM5

RD-5

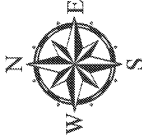
RD-3

CU-RD-3

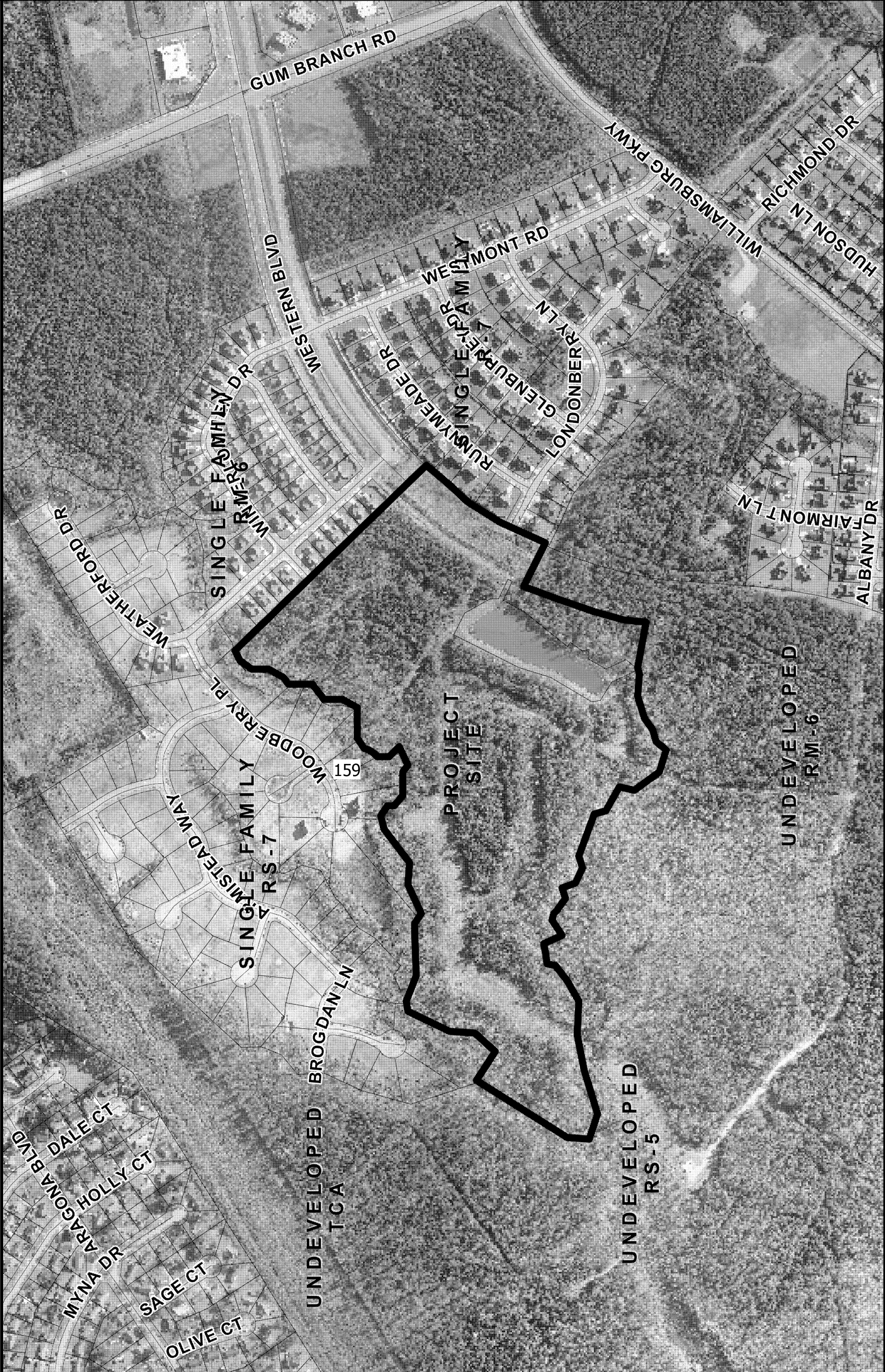
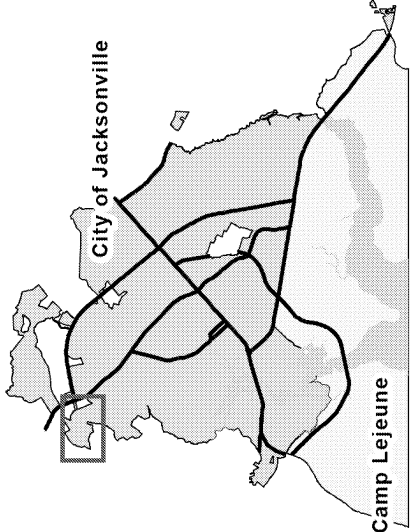
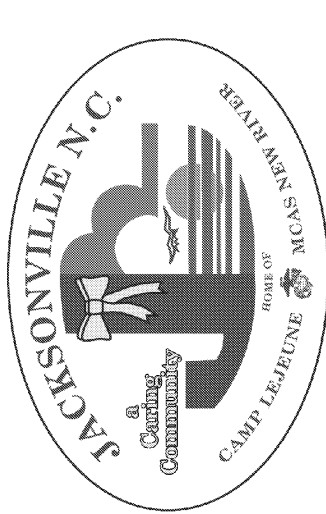
MR

Attachment
B

Disclaimer: This Map is intended to use for planning purposes only. City of Jacksonville or its individual departments are not liable for any data inaccuracies. Once again this map should not be used for any legal boundary determinations and data displayed on this map is collected from various different sources.



Emerson Park, Section 2



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Legend

Centerlines

Parcels

0

300

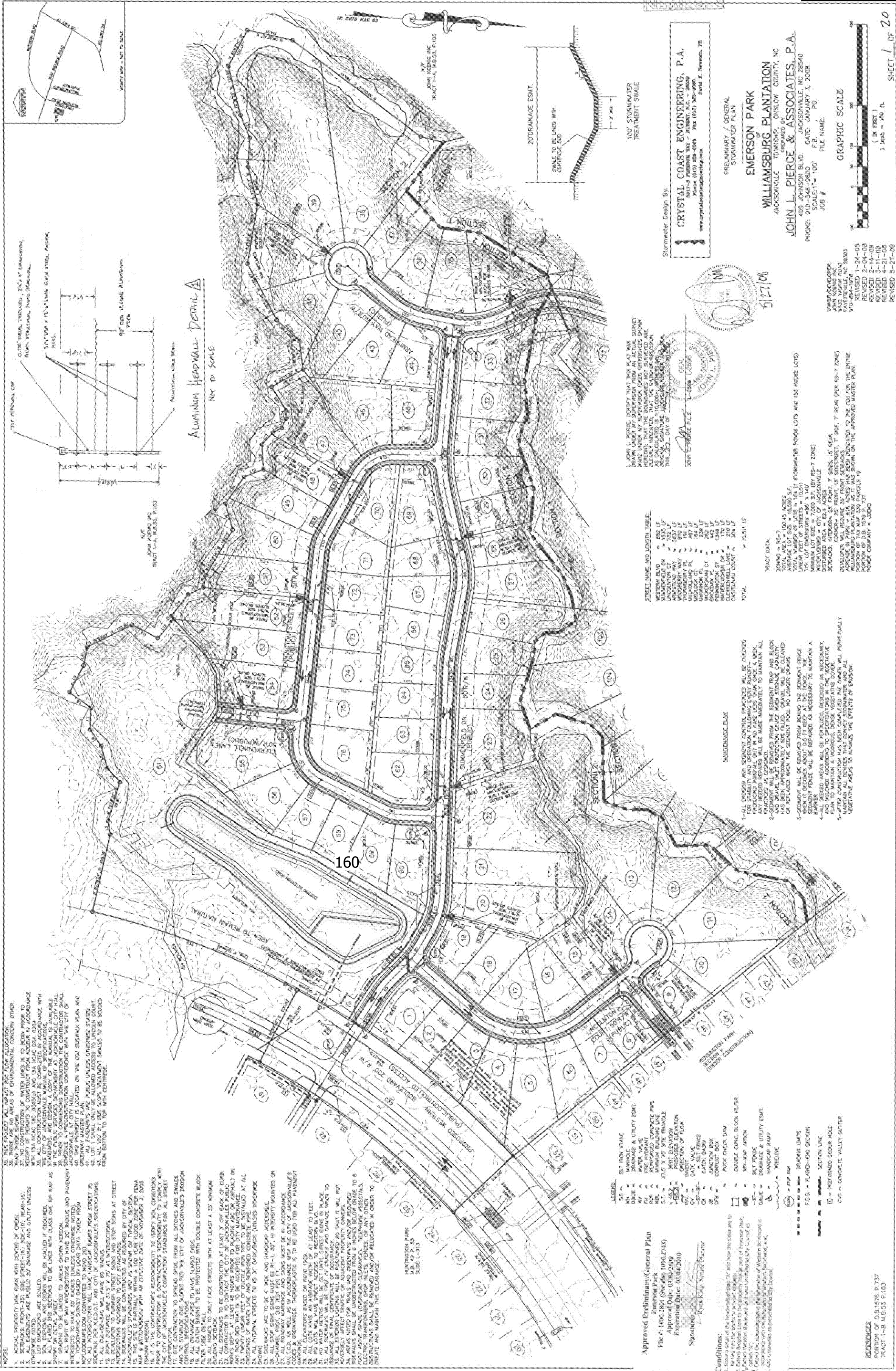
600

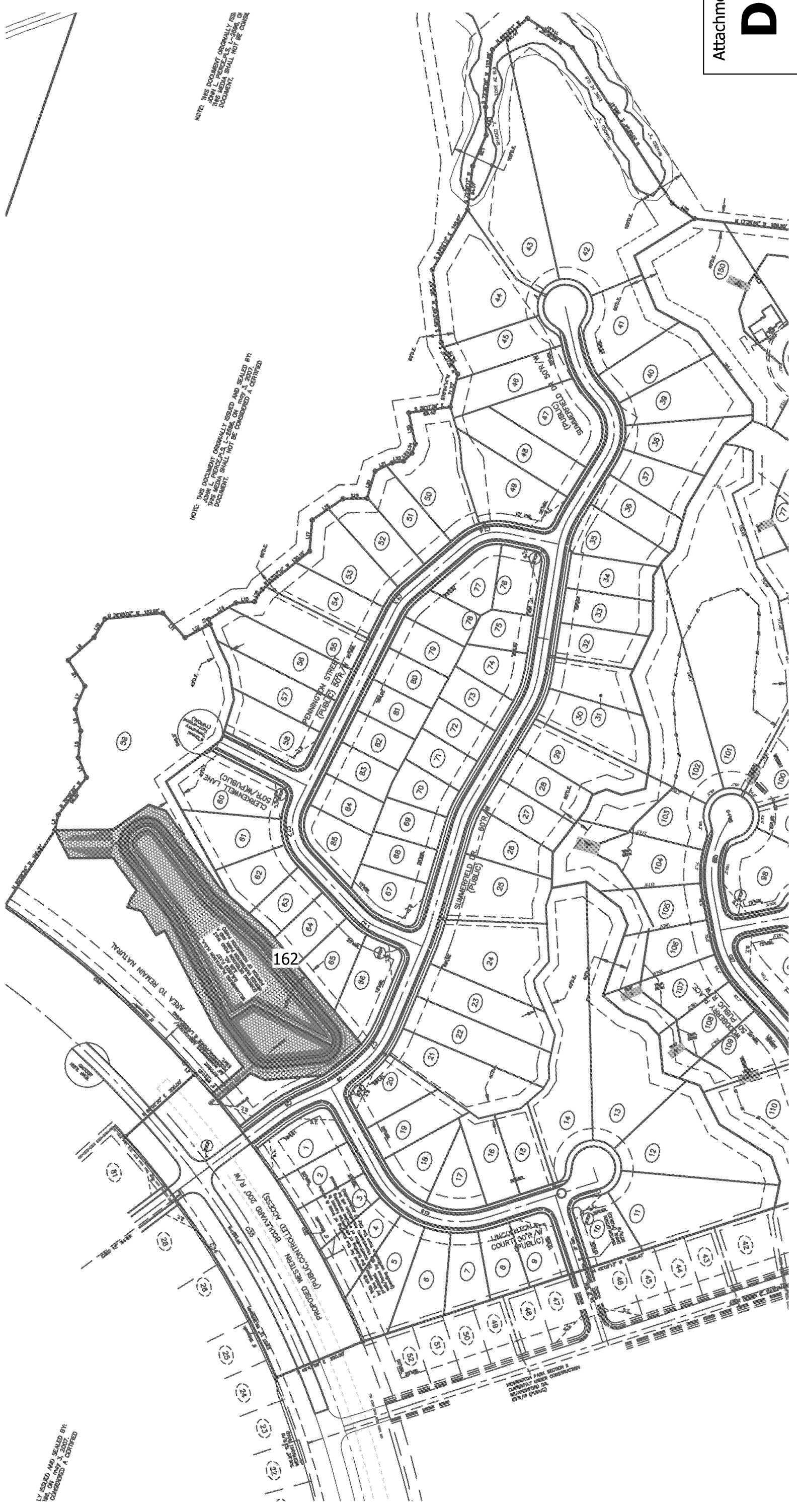
1,200

1,800

2,400

Feet





NOTE: THIS DOCUMENT ORIGINALLY ISSUED FOR JOHN L. PERCELL & SONS, INC. THIS MEDIA SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.

NOTE: THIS DOCUMENT ORIGINALLY ISSUED AND SEALED BY: JOHN L. PERCELL & SONS, INC. ON MAY 1, 2007. THIS MEDIA SHALL NOT BE CONSIDERED A CERTIFIED DOCUMENT.

LY ISSUED AND SEALED BY: JLP, ON MAY 1, 2007. CONSIDERED A CERTIFIED



Request for City Council Action

**Consent
Agenda
Item:**
Date:

13

3/8/2011

Subject: Legislative Budget Amendment-Utility Maintenance
Department: Public Services
Presented by: Pete Deaver, Utility Maintenance Superintendent
Presentation: No

Issue Statement

The requested budget amendment is due to the following factors:

1. Tropical Storm Nicole impacted Jacksonville with more than 20" of rain on September 30/October 1, 2010. Damage caused by the tropical storm rain required more than 17 manholes to be rebuilt, including lifting the manholes, new access cover standards to be implemented and the strapping of the manhole covers to prevent future blow-outs. Additionally, right-of-way had to be cleared which added over 40 hours of overtime for each line maintenance crew member. Lines Maintenance also was involved in the cleanup of the equalization tank spill.
2. The severe winter weather has caused a number of line breaks which resulted in overtime pipe repair, contracted work, and road repair. An example is the line blowout which occurred on Gum Branch Road where a leaking pipe washed a portion of the road.

This budget item will increase the level of funding in Utility Maintenance to cover these unanticipated events.

Financial Impact

The budget amendment increases funding in the Utility Maintenance Division budget and reduces unappropriated fund balance in the Water and Sewer Enterprise funds.

Action Needed

Consider the Budget Amendment

Recommendation

Staff recommends Council move to approve the Budget Amendment.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

A Proposed Budget Amendment

ORDINANCE (2011-)

AN ORDINANCE AMENDING THE FISCAL YEAR 2011 BUDGET

BE IT ORDAINED by the City Council of the City of Jacksonville, North Carolina that the following amendment to the Fiscal Year 2011 Water/Sewer Fund, Pump Station Rehabilitation, and Sewer Line Replacement project budgets is hereby enacted:

WATER/SEWER FUND

REVENUES	BUDGET	CHANGE	TOTAL
APPROPRIATED FUND BALANCE	(799,708)	200,000	(599,708)
TOTAL ADJUSTMENTS		200,000	
TOTAL PROJECT REVENUES	25,317,257	200,000	25,517,257

EXPENDITURES	BUDGET	CHANGE	TOTAL
OVERTIME		30,000	30,000
DEPARTMENTAL SUPPLIES		25,000	25,000
MAINTENANCE & REPAIR OF SEWER LINES		120,000	120,000
CONTRACTED PROFESSIONAL SERVICES		25,000	25,000
TOTAL ADJUSTMENTS		200,000	
TOTAL FUND EXPENDITURES	25,317,257	200,000	25,517,257

The purpose of this budget amendment is to increase the Utilities Maintenance budget to cover the unanticipated budget shortfall incurred mainly due to the events of Tropical Storm Nicole

This ordinance shall be effective upon its adoption.

ADOPTED by the Jacksonville City Council in regular session this 22nd day of February 2011.

ATTEST:

Carmen K. Miracle, City Clerk

Sammy Phillips, Mayor

Attachment

A



Request for City Council Action

**Consent
Agenda
Item:** **14**
Date: 3/8/2011

Subject: Renewal of Georgetown Training Grounds Lease Agreement

Department: Fire

Presented by: Chief Rick McIntyre

Presentation: No

Issue Statement

On April 8, 1980, the City of Jacksonville and the Onslow County Volunteer Fireman's Association jointly leased from the County of Onslow, the old Georgetown High School Football Field, for the purpose of establishing a Fire Training Center. This lease has been renewed every 10 years with the last renewal occurring in 2001. Consequently, this Fire Training Center has been in continuous use for area fire and rescue agencies for the past 30 years.

Financial Impact

None

Action Needed

Consider authorizing the City Manager to sign the Georgetown Training Grounds Lease Agreement, and any future revisions to said agreement.

Recommendation

Staff recommends Council move to authorize the City Manager to sign the Georgetown Lease Agreement, and any future revisions to said agreement.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

A Georgetown Lease Agreement

STATE OF NORTH CAROLINA

COUNTY OF ONSLOW

LEASE

THIS LEASE, made and entered into this 1st day of January 2011, by and between the County of Onslow of the one part, hereinafter called Lessor, and the Onslow County Volunteer Fireman's Association; and the City of Jacksonville Fire Department of the other part, jointly and severally, hereinafter called Lessees, both of said County and State.

WITNESSETH

1. Premises: The lessor, for and in consideration of the agreements and Covenants hereinafter mentioned to be fulfilled by the Lessees jointly and severally, does hereby demise and lease to the Lessees the following described land and premises:

Beginning on the Western Property line where the extended football field fence intersects said property line; thence along the property line South 34 degrees 54 minutes 14 seconds West – 1100 feet to the run of Brinson Creek; thence South 55 degrees 05 minutes 46 seconds East – 800 feet; thence North 34 degrees 54 minutes 14 seconds East – 500 feet; thence North 55 degrees 05 minutes 46 seconds West approximately 425 feet to the corner of the field fence; thence along said field fence 550 feet North to the fence corner; thence along said football field fence 420 feet to the point of beginning.

2. Term: The term of this lease shall be a period of ten (10) years beginning on the 1st day of January, 2011, and expiring on the 1st day of January, 2021.

3. Rental: The rent during said term shall be One Dollar (\$1.00) per year which the Lessees agree to pay in annual payments of One Dollar (\$1.00) per year each on the first day of January of each year.

4. Utility Bills: Lessees shall pay all water, sewer, gas, electricity, fuel, light, heat and power bills for the leased premises. If lessees do not pay the same, Lessor may pay the same and such payment shall be added to the rental of the premises.

5. Indemnity: Lessees agree to indemnify and hold harmless the Lessor against all claims for damages to persons or property by reason of the use or occupancy of the leased premises.

6. Repairs by Lessees: Lessees accept the leased premises in their present condition and as suited for the uses intended by Lessees. Lessees shall, throughout the initial term of this lease and all renewals thereof, at their expenses, maintain in good order and repair the leased premises, including the building and other improvements located thereon. Lessees further agree to care for the grounds around the building, including the mowing of grass. Lessees agree to return said premises to Lessor at the expiration, or prior termination, of this lease in as good condition and repair as when first received, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty excepted.

7. Assigning and subletting: Lessees may not assign this lease or sublet the whole or any part of the demised premises without the written consent of the Lessor.

8. Improvements to leased premises: Lessees, at their own expense, may construct upon the above described real estate any buildings or other improvements. All such improvements shall be made solely at the expense of the Lessees. Lessees covenant that the buildings or improvements

made shall conform to the building code and regulations of the City of Jacksonville, the County of Onslow, and the State of North Carolina.

9. Signs: During the time of this lease, Lessees may install at Lessees' cost such signs on the demised premises as may be reasonable. In addition, the Lessees shall have the right to install such signs as may be reasonable on the property of the Lessor which adjoins the entrance to the demised premises so that the Lessees will be able to appropriately give notice of their location to traffic along Georgetown Road.

10. Use of parking areas: The Lessees shall have the right to use any and all parking areas in the vicinity of the demised premises and to use any and all driveways and footways provided for ingress and egress to the demised premises for purposes of the use thereof.

11. Governmental requirements: Lessees agree, at their own expense, to comply with all requirements of any legally constituted public authority made necessary by reason of Lessees' occupancy or use of said premises. Lessees shall obtain any and all necessary or required permits and approvals for its training facility from state, local, or Federal governments. Lessees shall not carry out any of its activities without obtaining such approval and the use of the premises having failed to obtain the same shall constitute a breach of the terms of this lease agreement.

12. Use of premises: Lessees covenant to occupy and use the demised premises during the term of this lease and any renewal thereof as the Onslow County Fireman's Training Center. The Lessees covenant to use the premises only as a training center or for the other related fire department purposes and functions. The failure of the Lessees to use the premises as herein set forth shall constitute a breach of this lease agreement.

13. Fire insurance: Lessor will provide and pay for adequate fire insurance, with standard coverage, on the demised premises. "Adequate," as used herein, shall comprehend an amount equal to the insurable value of the improvements located on the demised premises. The maintenance of this insurance by the Lessor, however, shall not alter or affect the indemnity of the Lessor by the Lessees contained in Paragraph 6 above and shall not cause the Lessor to assume any responsibility for such damages. The Lessor shall only have the solely administrative responsibility of paying the premium on said insurance and the failure to pay the same shall not impose the Lessor any responsibility for damages.

14. Liability insurance: Lessees covenant and agree to save the Lessor harmless from any loss and liability for damage to any personal property upon or about the demised premises from any cause whatsoever. The Lessor agrees, however, to procure at its expense, a policy of general liability insurance for the protection of the Lessor and the Lessees from all liabilities arising out of the condition of the demised premises and the use thereof, and in an amount of not less than \$100,000.00 for injuries resulting to one person or \$300,000.00 if more than one person should be involved in the same accident, and not less than \$50,000.00 as to damage to property. Lessor covenants to keep such insurance coverage in force during the term hereof. The maintenance of this insurance by the Lessor, however, shall not alter or affect the indemnity of the Lessor by the Lessees contained in Paragraph 6 above and shall not cause the Lessor to assume any responsibility for such damages. The Lessor shall only have the solely administrative responsibility of paying the premium on said insurance and the failure to pay the same shall not impose upon the Lessor any responsibility for damages.

15. Lessees default: If the Lessees shall make default in any covenant or agreement to be performed by them and if after written notice from Lessor to Lessees, such default shall continue for a period of five (5) days, or if the Lessees shall be declared bankrupt or insolvent according to law,

then, and in any of said cases, the Lessor may immediately or at any time thereafter and without further notice or demand, enter into and upon said premises or any part thereof and take absolute possession of the same, fully and absolutely, without prejudice to other remedies. Notice to quit possession and every other formality is hereby expressly waived in case of default.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year above written.

ONSLOW COUNTY BOARD OF COMMISSIONERS

By _____

ATTEST:

Clerk

CITY OF JACKSONVILLE

By _____
Mayor

ATTEST:

Clerk

ONSLOW COUNTY VOLUNTEER FIREMAN'S
ASSOCIATION

President

Secretary

STATE OF NORTH CAROLINA

COUNTY OF ONSLOW

This the ____ day of _____, 2011, personally appeared before me, _____, a Notary Public in and for the State and County aforesaid, _____, who, being duly sworn, said that he/she knows the common seal of the Board of Commissioners of Onslow County and is acquainted with _____, who is Chairman of the Board of Commissioners of Onslow County, and that he/she the said _____, is Clerk of the Board of Commissioners of Onslow County sign the foregoing instrument, and saw the common seal of the said Board of Commissioners of Onslow County affixed to said instrument by the Chairman, and that he/she, the said _____, Clerk as aforesaid, signed his/her name in attestation of the due execution of the said foregoing instrument in the presence of said Chairman of the Board of Commissioners of Onslow County.

Witness my hand and seal, this the ____ day of _____, 2011.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA

COUNTY OF ONSLOW

This the ____ day of _____, 2011, personally appeared before me _____, a Notary Public in and for the State and County aforesaid, _____, who, being duly sworn, said that she knows the common seal of the City of Jacksonville and is acquainted with _____, who is Mayor of the City of Jacksonville, and that she, the said _____, is Clerk of the City of Jacksonville and saw the Mayor of the City of Jacksonville sign the foregoing instrument, and saw the common seal of the said City of Jacksonville affixed to said instrument by the Mayor, and that she, the said _____, Clerk as aforesaid, signed her name in attestation of the due execution of the said foregoing instrument in the presence of said Mayor of the City of Jacksonville.

Witness my hand and seal, this the ____ day of _____, 2011.

Notary Public

My commission expires:

STATE OF NORTH CAROLINA

COUNTY OF ONSLOW

I, the undersigned Notary Public in and for said County and State do hereby certify that _____ Personally appeared before me this day and acknowledged that he is President of the Onslow County Volunteer Fireman's Association and that said writing was signed by him in behalf of said association by its authority duly given. And the said Secretary acknowledged the said writing to be the act and deed of said association.

Witness my hand and notarial seal, this _____ day of _____, 2011.

Notary Public

My commission expires:

CERTIFICATE OF CITY'S ATTORNEY

I, the undersigned, John T. Carter Jr., the duly authorized and acting legal representative of THE CITY OF JACKSONVILLE, NORTH CAROLINA, do hereby certify as follows:

I have examined the attached Contract for the **Lease Agreement for Georgetown Road Training Grounds** between the City of Jacksonville and **Onslow County and Onslow County Volunteer Fireman's Association**, and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legal binding obligations upon the parties executing the same in accordance with terms, conditions, and provisions thereof.

Signature

Date

APPROVAL BY CITY FINANCE OFFICER

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Signature

Date



Request for City Council Action

Agenda Item:	15
Date:	3/8/2011

Subject: Discharge of Stormwater from Lot 8 onto City Street at 52 Office Park Drive
Department: City Attorney/Water Quality
Presented by: John T. Carter, Jr., City Attorney/Pat Donovan-Potts, Stormwater Manager
Presentation: Yes

Issue Statement

The City of Jacksonville's Public Services Director received a written request to discharge stormwater runoff from Lot 8 onto Office Park Drive, Jacksonville, NC from Mitchell Brydgc at 1210 Broad Creek Road New Bern, North Carolina 28560 on behalf of Owner Dr. George Thomas with Southeastern Nephrology at 200 Doctors Drive.

The Northeast Office Park was permitted by the State, DWQ, in August of 1990 without any piping for the collection system to the pond on the Northeast side or opposite side of the street. Based on the City Ordinance 23-23 this request was denied by the Public Services Director.

Mr. Brydgc is requesting that Council review and reverse the Public Services Director's decision.

Financial Impact

Possible future degradation of street asphalt and curbing caused by street flooding, as well as possible liability reference automobile accidents

Action Needed

Uphold Public Services Director's Denial of applicant's request to discharge stormwater runoff from Lot 8 at 52 Doctor's Drive in Northeast Office Park onto Office Park Drive.

Recommendation

Staff recommends Council uphold Public Services Director's Denial of applicant's request to discharge stormwater runoff from Lot 8 at 52 Doctor's Drive in Northeast Office Park onto Office Park Drive.

Approved: ☒ City Manager ☐ City Attorney

Attachments:

- A Request for stormwater discharge onto City Street from Mitchell Brydgc
- B Letter from Public Services Director denying discharge of stormwater
- C Email from Linda Lewis with DENR-DWQ concerning discharge on street
- D Map of North East Office Park showing stormwater ponds



Staff Report

Discharge of Stormwater from Lot 8 onto City Street at 52 Office Park Drive

Introduction

The City of Jacksonville received a request to discharge stormwater runoff from Lot 8 at 52 Office Park Drive, Jacksonville, NC from Mitchell Brydge at 1210 Broad Creek Road New Bern, North Carolina 28560 on behalf of Owner George Thomas with Southeastern Nephrology at 200 Doctors Drive. Thirty eight lots were created when the Northeast Office Park was developed in September of 1989. The commercial subdivision's stormwater drains to two ponds located on the Southwest side of Office Park Drive and permitted by DENR-DWQ in Wilmington. Seventeen of those lots were created on the Northeast side of Office Park Drive which lacks any piping or conveyance system to the ponds. Seven of the seventeen lots on the Northeast side have been developed leaving ten undeveloped. Six of the seven lots that are developed on the Northeast side drain towards the back of their lots, not towards the road, into the Heritage Square neighborhood. This has caused additional flooding issues within Heritage Square.

Procedural History

The two existing ponds in Northeast Office Park have been inspected by the City of Jacksonville's staff and have determined that the outlet structure is not draining correctly due to lack of maintenance to the outlet structure and buildup of debris in the receiving stream. This has caused the permanent pool water level in the pond to remain elevated at higher than normal levels. The City will coordinate with the permit holder and DENR-DWQ to correct these issues.

Linda Lewis, Director of Stormwater with the Department of Environmental Natural Resources-Division of Water Quality in the Wilmington Office was contacted in January, 2011 upon review of the Southeastern Nephrology plans submitted thru TRC November 16th 2010. We inquired about the permit #900431 for Northeast Office Park to Mr. William Bodenhamer, Jr. which was issued on August 24th 1990. The question was posed to Mrs. Lewis if the State would permit stormwater to be discharged onto a City Street to flow into the existing stormwater pond. Her response was that: *"DWQ has learned over the years that simply providing the treatment measures isn't enough- they also have to make sure the developer puts in the necessary collection system, pipes, swales, inlets etc., so that the lots can actually get their runoff to the permitted systems"*. She continues to say *"that being said, for an older system like this, the State would have no choice but to allow the lot to discharge into the street, but we would caveat that by also saying that whatever method they propose to get the runoff to the pond would need to meet any local requirements. I think that any ordinances you have that are stricter than the State in this regard, should be*

implemented. I don't think you should be forced to allow something that is contradictory to your ordinances".

The dilemma with the existing stormwater permit and its collection system via the road/gutter system is in direct conflict with the ordinance, Article II. Encroachment and Excavations. Section 23-23. Permit required; bond. Which states "***It shall be unlawful for any person to make any excavation or do any work which may cause a dangerous condition in or on any street, alley, sidewalk, public way or public place in the City, unless a written permit therefor shall have been first obtained from an officer of the city vested with authority to grant the same. No permit shall be issued in any case where a bond is required, until a bond shall have executed and filed with the city clerk. The officer having authority to grant the desired permit may refuse to grant the same for good and sufficient cause, but the applicant therefor shall have the right to appeal from such refusal to the council (Code 1968, 21-9)***

The City and developer have each completed calculations to determine the amount of stormwater runoff and the capacity of the existing infrastructure. The developer based its design standards on older design standards from 1990. The City based its calculations on current design standards as required by the Manual of Specifications Standards and Design and the NCDENR Stormwater Best Management Practices Manual. Below is a comparison between the two standards:

	Developer	City	Design Storm		Developer	City	Land Use
Rainfall Intensity (inches/Hour.)	4.80	-	1 Year	Coefficient of Runoff	0.6	-	Commercial Area
	-	6.36	5 Year		-	0.95	Impervious Surfaces
	-	7.20	10 Year		-	0.10	Sandy Lawns
	-	8.04	25 Year		-	0.74	Composite (Lot 8)

As represented in the table above the developer's engineer chose to use a much lower rainfall intensity and coefficient than the City. Based on using the two different standards the resulting runoff from just Lot 8 is 1.65 cfs vs. 3.05 cfs. This is an 85% increase in stormwater runoff based on using different design standards. As a comparison, the original design of Heritage Square's drainage system is based upon the older design standards.

In addition to the above, the City calculated the "gutter spread" along Office Park Drive using equations from the Federal Highway Administration Urban Drainage Design Manual, Hydraulic Engineering Circular No. 22, Third Edition, September 2009. Gutter spread is simply the length of water measured from back of curb toward the centerline of the street. Based upon the calculated stormwater runoff from only Lot 8, the gutter spread is approximately 10 feet (using Developer's 1.65 cfs based on 1 year design storm) or 12.6 feet (using City's 3.05 cfs based on 10 year design storm) into the roadway. Further calculations show the gutter spread to be approximately 12 feet and 13.2 feet for the 5 year and 25 year design storms respectively.

The existing drainage pipes were evaluated to determine if they are adequately sized to convey the stormwater runoff. The developer's engineer used the older design standards (1 year storm event) from the original design and record drawings to calculate a total flow of approximately 17.4 cfs being conveyed to the pond. The developer's engineer further states that "at full development, it appears the culvert has slightly less than sufficient capacity to drain the 6.4 acre drainage area of the one year event (18.7 cfs)." The City used current design standards and as expected, the pipes were not adequately sized to convey the 10 year design storm of approximately 40 cfs. As a result, the City worked out a preliminary design concept which consists of installing a second pipe parallel to the existing pipe within the drainage easement from the stormwater pond to the opposite side of Office Park Drive with two additional curb inlets in the street. Another pipe would then extend along the street to new curb inlets in front of Lot 6 and Lot 8.

Staff is additionally concerned with the additional liability issue this flow of stormwater into the street could possibly cause. As a reference, the City, through the NCLM defense counsel, is defending a lawsuit entitled: "Brian K. Hart v The Trustees of Coastal Carolina Community College, The City of Jacksonville, NC and The City Council of Jacksonville, NC", Onslow Superior Court file number 09 CvS 4680". This lawsuit involves an auto accident where a car hydroplaned on Western Boulevard at College intersection nearest where the former Lone Star Restaurant is located. This intersection was where the College completed its most recently added new building. This is a state road, the building was built and stormwater was permitted by NCDENR prior to the City starting its on public utility. City hopes after legal discovery that a motion to dismiss will be granted as to the City and Council. However, as you can see, even in a situation where it appears there is no City liability, the City and NCLM has to expend a considerable amount of money in defending these type lawsuits.

The City has offered to seek any necessary modifications to the NCDENR permit and to construct 3 catch basins and an additional pipe into pond at an approximate cost of \$42,856.00. City further has asked developer to construct one additional catch basin off his property and pipe down to City's additional catch basins \$19,330.00. This type system would assure that stormwater flow from this lot and other undeveloped lots would have adequate catch basins to prevent street flooding. Additionally, City has offered to allow developer to do a "cost recovery" agreement to recoup part of his cost from other lot owners as they develop. Developer has also indicated they have looked into an "onsite" system for treatment of the stormwater, but did not want to pursue this further without first being allowed to make their case before Council that this stormwater flow will not adversely create additional flooding and street infrastructure degradation.

Stakeholders

- Businesses and their clients who travel on Office Park Drive
- Citizens of Jacksonville

Option

Authorize request for discharge permit

- Pros – None
- Cons – Possible future degradation of street asphalt and curbing caused by street flooding. Unsafe driving conditions (hydroplaning) along street. Unsafe walking conditions along sidewalk.

Deny request for discharge permit - **RECOMMENDED**

- Pros – Limits flooding on Office Park Drive from Stormwater
- Cons –None

Defer Consideration of the request for discharge permit, if Council needs additional information

February 3, 2011

Mr. Grant Sparks
Jacksonville Public Services
PO Box 128
Jacksonville, North Carolina 28541

Re: Discharge of water into the street at 52 Office Park Drive

Mr. Sparks,

My name is Mitchell Brydge and I am the General Contractor hired by Dr. George Thomas and partners to construct a single story brick office building at the above mentioned address.

During the TRC review it came to our attention that we are required to direct all of our storm water discharge to an in place storm water pond on the westerly side (opposite side of the street) of Office Park Drive. Per the site plans we have provided the planning office, we meet all of the requirements of state storm water permit 900431, see attached. The issue at hand is the method of collection for the storm water. Our plans are calling for it to be discharged into the street and collected in a catch basin approximately 280' to the north. This is the prescribed method per the permit.

Mr. Aldon Cox and Mr. Tom Anderson, both of Jacksonville Public Services have indicated that the storm water shall not be discharged into the city street. According to Public Services, code section 23-23 prohibits such activity unless a written permit is obtained from an officer of the city vested with the authority to grant it.

The dilemma is that the in place permit and its collection via the roads/gutter system is in direct conflict with the ordinance. I would like to fully comply with the states storm water permit and I am asking if you would write a permit allowing us to discharge the water from our site to the street.

Attachment

A

The code states that we are prohibited from activities that may cause dangerous conditions in or on the street. Through conversation with John Pierce, the original designer and Mrs. Susan Sager, my consulting engineer, it can be reasonably assumed that discharge of water into the street at this location will neither undermine the road or create hazardous driving conditions for vehicular traffic. I would be happy to meet with you and explain our thoughts on this matter.

I appreciate your consideration and help in resolving this matter. If you have any questions, please contact me.

Respectfully,

Mitchell Brydge



State of North Carolina
Department of Environment, Health, and Natural Resources
Wilmington Regional Office

James C. Martin, Governor
William W. Cobey, Jr., Secretary

August 24, 1990

Bob Jamieson
Regional Manager

DIVISION OF ENVIRONMENTAL MANAGEMENT

Mr. William Bodenhamer, Jr.
Post Office Box 6018
Ft. Lauderdale, Florida 33310

Subject: Certification of Compliance
with Stormwater Regulations
Stormwater Project No. 900431
Northeast Office Park
Onslow County

Dear Mr. Bodenhamer:

This Certification is pursuant to the application for Northeast Office Park received on April 20, 1990, 1990 with additional information received on August 10, 1990. Based on our review of the project plans and specifications, we have determined that the stormwater control system complies with the Stormwater Regulations set forth in Title 15A NCAC 2H.1003(i). The runoff will be treated in a detention pond sized to achieve 85% reduction in Total Suspended Solids.

This Certification shall be effective from the date of issuance until rescinded. The project shall be constructed and maintained in accordance with the plans and specifications approved by the Wilmington Regional Office.

A professional engineer must certify that the stormwater system has been installed in accordance with the approved plans and specifications upon completion of construction. The attached certification should be received by this Office within 30 days of completion of construction.

If you have any questions concerning this matter, please call Alexis Finn or me at (919) 256-4161.

Sincerely,

Dave Adkins

Water Quality Supervisor

DA/AIF: 900431.AUG

cc: Marshall Batchlor
John Parker; DCM, Bill Mills
Jim Herstine, AIF, WiRO, CF

DIVISION OF ENVIRONMENTAL MANAGEMENT

Evaluation of Stormwater Treatment and Disposal System
Draining to Waters Other Than Class SA

PROJECT DATA

Project Name: Northeast Office Park
Project No.: 900431
Location (County, Township/Municipality, Address):
Office Park Drive
Jacksonville, North Carolina
Onslow County

Applicant Name: Mr. John L. Pierce
Mailing Address: Post Office Box 1685
Jacksonville, North Carolina 28541

Submittal Date: April 20, 1990

Water Body Receiving Stormwater Runoff: Northeast Creek
Classification of Water Body: SC

WET DETENTION POND EVALUATION

1. Yes No The design storage is for the runoff from all impervious surfaces resulting from 1-inch of rainfall and is located above the permanent pool.
2. Yes No The permanent pool is designed for 85% TSS removal.
3. Yes No The runoff completely draws down to the permanent pool in 5 days, but not less than 2 days.
4. Yes No The mean depth of the permanent pool is a minimum of 3 feet.
5. Yes No The inlet structure is designed to minimize turbulence and short circuiting.
6. Yes No All overflow and discharge flows through a vegetative filter at least 30 feet in length.
7. Yes No A method is used to provide even distribution of runoff over the length of the vegetative filter.

Continued

WET DETENTION POND EVALUATION CONTINUED

8. Yes No The slope and width of the vegetative filter provides non-erosive flow for the 10-year and 24-hour storm with a 10-year, 1-hour intensity.
9. Yes No The vegetative filter has a slope of 5% or less.
10. Yes No The vegetative filter is natural, grassed or artificially planted wetland vegetation.
11. Yes No An appropriate operation and maintenance plan has been provided for the system.
12. Yes No THIS PROJECT MEETS THE STORMWATER CONTROL REQUIREMENTS OF 15A NCAC 2H. (g), (i), (j), (k), and (1) (For Yes, 1 through 11 must all be circled Yes.)

Brief Explanation: This office complex has been designed with 2 detention ponds to capture the first inch of runoff and remove 85% total suspended solids. Both ponds will be operated with a vegetative filters. No greater than 85% of any site will be built upon.

DIVISION OF ENVIRONMENTAL MANAGEMENT SIGN-OFF

Wilmington Regional Office

August 24, 1990
Date

[Signature]
Individual Evaluating Form/Plans

24 August 1990
Date

[Signature]
Regional Water Quality Supervisor

cc: Applicant/WiRO/Mills/CF

Engineer's Certification

I, Frederick Cone, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe (periodically/weekly/full time) the construction of the project,

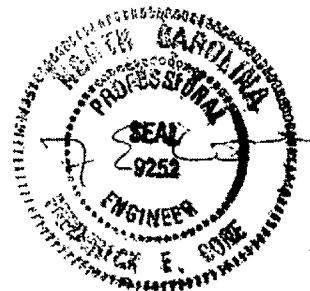
Northeast Office Park, Project No. #900431
(Project)

for the William Bodenhamer Jr. hereby state that, to
(Project Owner)
the best of my abilities, due care and diligence was used in the observation of the project construction such that the construction was observed to be built within substantial compliance and intent of the approved plans and specifications.

Signature Frederick E Cone

Registration Number 9252

Date May 31, 1991



STORMWATER WET DETENTION
POND CALCULATIONS
(TWO PONDS)

RECEIVED

DEM
PROJ # 900431

NORTHEAST OFFICE PARK
COUNTRY CLUB ROAD
JACKSONVILLE, N.C. 28540

PROPERTY OF RICHARD RAY

FREDERICK E. CONE, P.E.

AND

JOHN L. PIERCE SURVEYING
409 JOHNSON BOULEVARD
P.O. BOX 1685
JACKSONVILLE, N.C. 28540

MARCH 23, 1990

STORMWATER DETENTION POND NO.// 1
CALCULATIONS

I. TOTAL SITE	= 540,000
Breakdown by Surface	
Roads 1475 LF x 31'	= 45,725
Paved or Impervious areas, Lots (Assume 85% Impervious)	= 420,133
Non Paved Areas, Lots	= 74,142 SF
TOTAL	540,000

II. DETERMINE POND SURFACE AREA
FOR 85% T.S.S.

Drainage Area	= 465,858 SF
Permanent Pool Depth	= 4.5'
Percent Impervious	= 100%
SA/DA %	= 6.2%
SA = (465,858 sf)(.062)	
= 28,883 SF	
= .66 AC	

III. DETERMINE THE VOLUME OF RUNOFF FROM
A 1.0 INCH RAINFALL.

Drainage Area	= 465,858 SF
Pond Area Contributing	= 28,883 + 13,600 (ATC = .1)
Runoff Coefficient	= $\frac{(465,858 + 28,883)(1.0) + (13,600)(.1)}{508,341}$

$$C = 0.975$$

$$V = 508,341 \times \left(\frac{1}{12}\right) \times (.975)$$

$$= 41,303 \text{ CF}$$

IV. DETERMINE THE DEPTH OF STORAGE
REQUIRED.

$$SA = 28,883 \text{ SF @ } E = 33.3$$

$$\text{Side Slopes} = 3 : 1$$

$$\text{Length of Shore} = 720'$$

$$V = 41,303$$

$$V = \left(\frac{1}{2}\right)(3x)(x)(720) + 28,883(x)$$

$$0 = 1080x^2 + 28,883(x) - 41,303$$

$$X = 1.35'$$

Add 10% Safety Factor

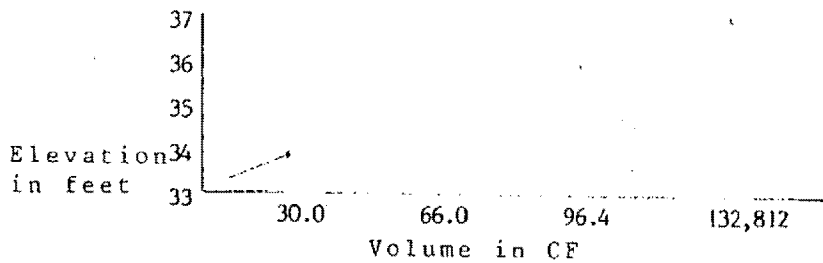
$$\text{Depth of Storage} = 1.1 (1.35') = 1.48'$$

Say 1.5'

STORAGE TABLE

Water Elevation (ft)	Surface Area (SF)	Incremental Volume (CF)	Total Volume (CF)
33	28,883		0
34	30,983	29,913	29,913
35	33,113	32,173	
36	35,273	34,283	62,086
37	37,493	36,443	96,369
			132,812

Stage Storage Curve



V. Determine Orifice Size For A 2 to 5 Day Draw Down Time

$$V = 41,303 \text{ CF}$$

$$2 \text{ days} = 172,800 \text{ SEC.}$$

$$5 \text{ days} = 432,000 \text{ SEC.}$$

$$Q_2 = \frac{41,303}{172,800} = .24 \text{ CFS}$$

$$Q_5 = \frac{41,303}{432,000} = .096 \text{ CFS}$$

$$D_2 = \left[\frac{.24 \text{ cfs}}{(.0263) \sqrt{1.5/2}} \right]^{1/2}$$

$$= 3.24 \text{ inches}$$

$$D_5 = \left[\frac{.096 \text{ cfs}}{(.0263) \sqrt{1.5/2}} \right]^{1/2}$$

$$= 2.05 \text{ inches}$$

Use 3.0" Orifice

VI. Determine Riser Size for Pre-Development 10 year - 10 min Storm

$$Q = CIA$$

$$C = .30 \text{ (Unimproved areas)}$$

$$i = 6.0 \text{ in./hr.}$$

$$A = 12.39 \text{ Ac}$$

$$Q = (.3) (6.0) (12.39)$$

$$= 22.3 \text{ CFS}$$

Size Riser (Use Wier Equation)

$$Q_w = C_w (L) (H)$$

$$L = 7.43'$$

$$C_w = 3$$

$$L = TT D$$

$$H = 1 \text{ Ft}$$

$$D = 28.38''$$

Use 30" CMP

$$Q_w = 22.3 \text{ CFS}$$

VII. DETERMINE LENGTH OF EMERGENCY SPILLWAY

100 year - 5 min Storm

I = 10 in/hr

A = 12.39 ac

C = 1.0

$$Q = (1.0) (10) 12.39 \\ = 123.9 \text{ CFS}$$

Design spillway - use effective length of
20' & Q = 123.9 CFS

(use Wier equation)

$$H = \left[\frac{123.9 \text{ CFS}}{(3.0) (20')} \right]^{2/3} \\ = 1.62 \text{ ok}$$

E= 28.8 Bottom of Pond

E= 33.3 Pond surface

E= 34.8 Riser contributes

E= 36.8 Emergency spillway

E= 39.0 Surrounding area

STORMWATER DETENTION POND No. 2
CALCULATIONS

I. Total Site = 468,414

Breakdown by Surface

Roads 750 LF x 31' =	23,250	
Paved or Impervious Areas		
Lots (Assume 85% Impervious)		401,639 SF
=	378,389	
	66,775 SF	
Total	468,414	

II. Determine Pond Surface Area
for 85% T.S.S.

Drainage Area	=	401,639
Permanent Pool Depth	=	4.5
Percent Impervious	=	100%
SA/DA %	=	6.2%

SA = 401,639 (0.062)
= 24,901 SF

= .571 AC

III. Determine The Volume of Runoff From A
1.0 inch Rainfall.

Drainage Area = 401,639 SF
Pond Area Contributing = 24,901 + 12,000 (at C = .1)
Runoff Coefficient = $\frac{(401,639 + 24,901)(1.0) + (12,000)(.1)}{438,540}$

C = .975
V = 438,540 x (1/12) x .975
= 35,631 CF

IV. Determine to Depth of Storage Required.

SA = 24,901 SF @ E = 33.5'
Side Slope = 3:1
Length of Shore =
V = 35,631 CF

$V = \frac{1}{2}(3x)(x)(700) + 24901(x)$
 $0 = 1050x^2 + 24,901x - 35,631$
 $x = 1.24'$

Add 10% Safety Factor

Depth of Storage = (1.1)(1.31) = 1.47'

SAY 1.5'

V. Determine Orifice Size For A 2 to 5 Day Draw Down Time.

$$V = 35,631 \text{ CF}$$

$$2 \text{ Days} = 172,800 \text{ Sec}$$

$$5 \text{ Days} = 432,000 \text{ Sec}$$

$$Q_2 = \frac{35,631 \text{ CF}}{172,800} = .206 \text{ CFS}$$

$$Q_5 = \frac{35,631 \text{ CF}}{432,000 \text{ Sec}} = .082 \text{ CFS}$$

$$D_2 = \left[\frac{.206}{(.0263) \sqrt{1.5/2}} \right]^{1/2}$$

$$= 3.0''$$

$$D_5 = \left[\frac{.082}{(.0263) \sqrt{1.5/2}} \right]^{1/2}$$

$$= 1.89''$$

Use 2.5" Orifice

VI. Determine Riser Size for Pre-Development 10 yr - 10 min Storm.

$$Q = CIA$$

$$C = .30 \text{ (Unimproved Area)}$$

$$i = 6.0 \text{ in/hr}$$

$$A = 10.75 \text{ ac}$$

$$Q = (.3)(6.0)(10.75)$$

$$= 19.35 \text{ CFS}$$

Size Riser (Use Wier Equation)

$$Q_w = C_w (L)(H)$$

$$C_w = 3$$

$$H = 1 \text{ Ft}$$

$$Q_w = 19.35 \text{ CFS}$$

$$L = 6.45'$$

$$L = TT D$$

$$D = 24.6'' \text{ Use 24'' CMP}$$

VII. Determine Length of Emergency Spillway.

$$i = 10 \text{ in/hr}$$

$$A = 10.75 \text{ Ac}$$

$$C = 1.0$$

$$Q = 1.0 (10) 10.75$$

$$= 107.5 \text{ CFS}$$

Design Spillway - Use Effective Length of 20' & $Q = 107.5 \text{ CFS}$

(Use Wier Equation)

$$H = \left[\frac{107.5 \text{ CFS}}{3.0 \sqrt{20}} \right]^{2/3}$$

$$= 1.47' \text{ Ok}$$

$$E = 29 \text{ Bottom of Pond}$$

$$E = 33.5 \text{ Pond Surface}$$

$$E = 35 \text{ Riser Contributor}$$

$$E = 37 \text{ Emergency Spillway Contributor}$$

$$E = 39 \text{ Surrounding Area}$$

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Brief Explanation: _____

WET DETENTION POND

1. ☒ No The design storage is for the runoff from all surfaces resulting from 1-inch of rainfall and is located above the permanent pool.
2. ☒ No The permanent pool is designed for 85% TSS removal.
3. ☒ No The runoff completely draws down to the permanent pool in 2 to 5 days.
4. ☒ No The mean depth is ≥ 3 feet.
5. ☒ No The inlet structure is designed to minimize turbulence and short circuiting.
6. ☒ No All overflow and discharge flows through a vegetative filter at least 30 feet in length.
7. ☒ No A swale is used to provide even distribution of runoff over the length of the vegetative filter.
8. ☒ No The slope and width of the vegetative filter provides non-erosive flow for the 10-year 24-hr storm with a 10-hr intensity.
9. ☒ No The first 30 feet of the vegetative filter has a slope of 5% or less.
10. ☒ No The vegetative filter is natural, grassed or artificially planted wetland vegetation.
11. ☒ No Infiltration swales are used where practicable for pretreatment of runoff.
12. ☒ No An appropriate operation and maintenance plan has been provided for the system.
13. ☒ No THIS PROJECT MEETS THE STORMWATER CONTROL REQUIREMENTS OF 15 NCAC 2H . (g), (i), (j), (k), and (l) (For yes, 1 through 12 must all be circled yes).

Brief Explanation: Two separate wet detention ponds designed for runoff from proposed 23 acre office park.

(Attach additional sheets if necessary.)

DIVISION OF ENVIRONMENTAL MANAGEMENT SIGN-OFF

Regional Office

Date _____

Individual Evaluating Form / Plans

Date _____

Regional Water Quality Supervisor

DIVISION OF ENVIRONMENTAL MANAGEMENT

Evaluation of Stormwater Treatment and Disposal System
Draining to Waters Other Than Class SA

PROJECT DATA

Project Name: Northeast Office Park

Location (County, Township/Municipality, Address): Country Club Road, Jacksonville, NC 28540

Applicant Name: Richard Ray

Mailing Address: P.O. box 610, Jacksonville, NC

Phone No: 919-346-8218

Submittal Date: 4-19-90

Water Body Receiving Stormwater Runoff:

Name of Water Body: Northeast Creek-Tributary of New River

Classification of Water Body: SC

INFILTRATION SYSTEM N/A

1. Yes No System is capable of treating and disposing of runoff from all surfaces resulting from 1 inch of rain.
2. Yes No The system is located at least 30 feet from surface waters.
3. Yes No The system is a minimum of 100 feet from water supply wells.
4. Yes No The bottom of the system is a minimum of 2 feet from the seasonal high water table.
5. Yes No Runoff in excess of the design volume by-passes the system and does not flush pollutants through the system.
6. Yes No A swale is used to provide even distribution of runoff over the length of the vegetative filter.
7. Yes No The slope and width of the vegetative filter provides non-erosive flow for the 10-year 24-hr storm with a 10-hr intensity.
8. Yes No The first 30 feet of the vegetative filter has a slope of 5% or less.
9. Yes No The vegetative filter is natural, grassed or artificially planted wetland vegetation.
10. Yes No The system has been shown to completely draw down in 5 days.
11. Yes No Soil has a minimum hydraulic conductivity of 0.52 in/hr.
12. Yes No The system is not sited on or in fill material.
13. Yes No The system has an observation well.
14. Yes No An appropriate operation and maintenance plan has been provided for the system.
15. Yes No THIS PROJECT MEETS THE STORMWATER CONTROL REQUIREMENTS OF 15 NCAC 2H . (g), (h), (j), (k) and (l) (For yes, 1 through 14 above must all be circled yes).

Mitchell Brydge

From: John Carter [jcarter@ci.jacksonville.nc.us]

Sent: Thursday, January 27, 2011 8:16 AM

To: 'Mitchell Brydge'

Cc: Richard L. Woodruff

Subject: RE: 14 Office Park Drive, Jacksonville

Mitchell,

Below is the applicable code section. I am in depositions again next week, but am copying Mr. Woodruff so he can address your concerns.

**Thanks,
John**

Sec. 23-23. Permit required; bond.

It shall be unlawful for any person to make any excavation or do any other work which may cause a dangerous condition in or on any street, alley, sidewalk, public way or public place in the city, unless a written permit therefor shall have been first obtained from an officer of the city vested with authority to grant the same. No permit shall be issued in any case where a bond is required, until a bond shall have been executed and filed with the city clerk. The officer having authority to grant the desired permit may refuse to grant the same for good and sufficient cause, but the applicant therefor shall have the right to appeal from such refusal to the council.
(Code 1968, § 21-9)

CITY OF JACKSONVILLE

Public Services Department



February 22nd, 2011

Mitchell Brydge
1210 Broad Creek Road
New Bern, North Carolina 28560

Re: Discharge of water onto City Street at 52 Office Park Drive

Mr. Brydge,

The City of Jacksonville received your request to discharge stormwater runoff from Lot 52 on Office Park Drive, Jacksonville, NC. Upon receipt of your request all pertinent information involved in this case was gathered and reviewed.

Linda Lewis, Director of Stormwater with the Department of Environmental Natural Resources-Division of Water Quality in the Wilmington Office was contacted in January upon review of the Southeastern Nephrology plans submitted thru TRC November 16th 2010. We inquired about the permit #900431 for Northeast Office Park to Mr. William Bodenhamer, Jr. which was issued on August 24th 1990. The question was posed to Mrs. Lewis if the State would permit stormwater to be discharged onto a City Street to flow into the existing stormwater pond. Her response was that: *"DWQ has learned over the years that simply providing the treatment measures isn't enough- they also have to make sure the developer puts in the necessary collection system, pipes, swales, inlets etc., so that the lots can actually get their runoff to the permitted systems"*. She continues to say *"that being said, for an older system like this, the State would have no choice but to allow the lot to discharge into the street, but we would caveat that by also saying that whatever method they propose to get the runoff to the pond would need to meet any local requirements. I think that any ordinances you have that are stricter than the State in this regard, should be implemented. I don't think you should be forced to allow something that is contradictory to your ordinances"*.

The dilemma with the existing stormwater permit and its collection system via the road/gutter system is in direct conflict with the ordinance, Article II. Encroachment and Excavations. Section 23-23. Permit required; bond. Which states ***"It shall be unlawful for any person to make any excavation or do any work which may cause a dangerous condition in or on any street, alley, sidewalk, public way or public place in the City, unless a written permit therefor shall have been first obtained from an officer of the city vested with authority to grant the same. No permit shall be issued in any case where a bond is required, until a bond shall have executed and filed with the city clerk. The officer having authority to grant the desired permit may refuse to grant the same for good and sufficient cause, but the applicant therefor shall have the right to appeal from such refusal to the council (Code 1968, 21-9)"***

Attachment

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Whether or not the State issued stormwater permit allows stormwater to be discharged into the curb and gutter system is not relevant because the City ordinance prohibits such actions. Therefore, based upon the City ordinance, I respectfully deny your request to grant the waiver for this project and will forward the request to the City Council for their action. The request should be put on the Council's agenda for the March 8th meeting. Please advise me of your intentions at your earliest convenience.

Sincerely,

Grant Sparks
Director of Public Services

Pat-

We've learned over the years that simply providing the treatment measure isn't enough – we also have to make sure the developer puts in the necessary collection system, pipes, swales, inlets, etc., so that the lots can actually get their runoff to the permitted system.

That being said, for an older system like this, the State would have no choice but to allow the lot to discharge into the street, but we would caveat that by also saying that whatever method they propose to get the runoff to the pond would need to meet any local requirements. I think that any ordinances you have that are stricter than the State in this regard, should be implemented. I don't think you should be forced to allow something that is contradictory to your ordinances.

Things to consider are that point source direct discharges onto the paved road surface may have a detrimental effect on the pavement structure and existing curbing, leading to pavement collapse. Additionally, the inlet capacity may be exceeded and flooding may occur.

Linda

Please note my new email address is Linda.Lewis@ncdenr.gov

Linda Lewis
NC Division of Water Quality
127 Cardinal Drive Ext.
Wilmington, NC 28405
910-796-7215

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

From: Pat Donovan-Potts [<mailto:pdonovan-potts@ci.jacksonville.nc.us>]
Sent: Wednesday, January 05, 2011 11:42 AM
To: Lewis,Linda
Subject: FW: Phone message from Mr. Mitchell Bridge re: 14 Office Park Drive

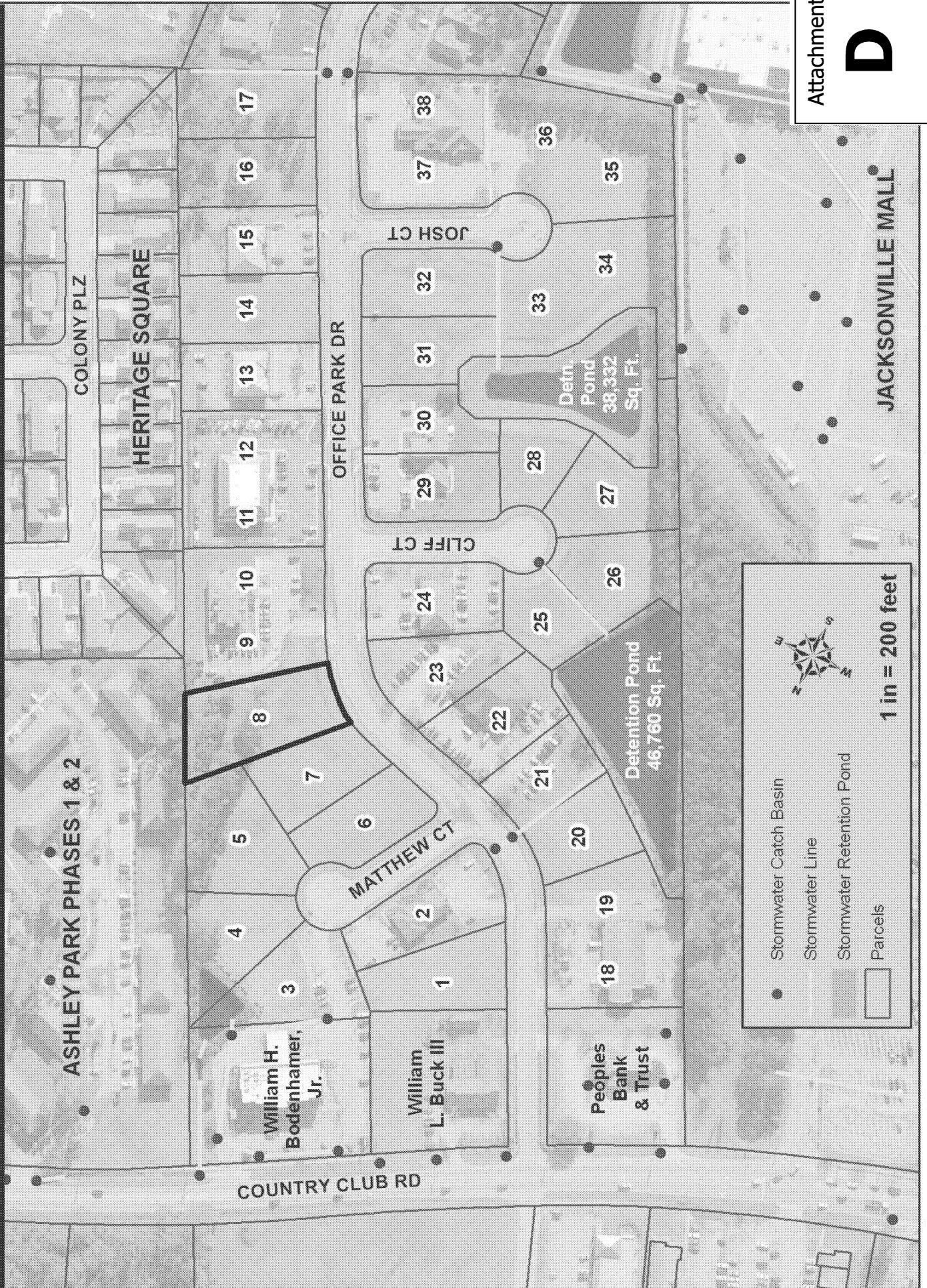
Linda,
We have been asked by this developer/owner if they can discharge all of their stormwater onto a City Street to go to existing pond
Permitted by you DWQ.

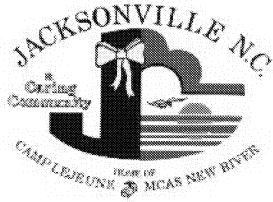
Would you allow this?
Please advise.
Pat Donovan-Potts
Stormwater Manager
City of Jacksonville
pdonovan-potts@ci.jacksonville.nc.us
910-938-6446

Attachment

C

NORTH EAST OFFICE PARK LOT# 8 - Stormwater Discharge into City Street





Request for City Council Action

Agenda Item:	16
Date:	3/8/2011

Subject: Purchase and Option Agreement for Sale of City Owned Property and Authorization for Upset Bid Process – Jacksonville Business Park

Department: Legal

Presented by: John T. Carter, Jr., City Attorney

Presentation: Yes

Issue Statement

Mr. Cliff Ray, Ray Development and Consulting, LLC, has submitted an offer and proposed agreement to purchase +/- 2.50 acres of City owned property located in the Jacksonville Business Park, along with a proposed Purchase and Option Agreement. The proposed Agreement includes a provision for an option to purchase the additional and adjacent tract consisting of approximately 3.95 acres, within two years of closing on the original purchase.

An appraisal of the adjacent "Noland" property in 2005 resulted in a market value estimate of \$80,000 per acre. Ray Development and Consulting, LLC has offered \$75,000 per acre.

If Council approves the Purchase and Option Agreement, the upset bid process as provided by GS 160A-269 will be utilized, with a requirement that additional parties wishing to bid on the property will be required to comply with all provisions of the Purchase and Option Agreement. The City reserves the right to reject any and all offers at any time.

Financial Impact

\$187,500 upon sale of the 2.50 acre tract. Should the Option to Purchase the 3.95 acres be exercised, pursuant to the requirements of the Agreement, the purchase price shall be the appraised value as determined by a licensed real estate appraiser mutually agreed upon by the parties, cost of said appraiser shared equally between the parties.

Action Needed

Consider Purchase and Option Agreement and Resolution Authorizing the Advertisement of Offer

Recommendation

Staff recommends that Council move to adopt the Resolution.

Approved: ☒ City Manager ☒ City Attorney

Attachments:

- A Proposed Resolution
- B Proposed Purchase and Option Agreement
- C Location Map



Staff Report

Offer to Purchase City Owned Property

Introduction

Mr. Cliff Ray, Ray Development and Consulting, LLC, has submitted an offer and proposed agreement to purchase +/- 2.50 acres of City owned property located in the Jacksonville Business Park, along with a proposed Purchase and Option Agreement. The Agreement includes a provision for an option to purchase an additional and adjacent tract consisting of approximately 3.95 acres, within two years of closing on the original tract.

An appraisal of the adjacent "Noland" property in 2005 resulted in a market value estimate of \$80,000 per acre. At that time the appraiser indicated this approximate figure could be used for the remaining acreage in the park. Ray Development and Consulting, LLC has offered \$75,000 per acre for the initial 2.50 acre tract (\$187,500). Should the Option to Purchase be exercised pursuant to the requirements of the Agreement, the purchase price of that tract shall be the appraised value as determined by a licensed real estate appraiser, mutually agreed upon by the parties, cost of said appraiser to be shared equally.

Ray Development and Consulting LLC have submitted the required 5% deposit to the City Clerk as required by GS 160A-269.

If Council approves the Purchase and Option Agreement, the upset bid process as provided by GS 160A-269 will be utilized, with a requirement that additional parties wishing to bid on the property will be required to comply with all provisions of the Purchase and Option Agreement, and must increase the bid by at least 10% of the first \$1,000 and 5% of the remainder, and must deposit 5% of the increased bid with the City Clerk.

The City reserves the right to reject any and all offers at any time.

Procedural History

- March 8, 2011 - Council will consider the Purchase and Option Agreement and the Resolution authorizing the advertisement of an offer to purchase.
- If the Purchase and Option Agreement and the Resolution are approved, a legal ad describing the offer, the availability of the Purchase and Option Agreement for review in the City Clerk's Office, and explaining the upset bid process, will be published in the Legal Ad section of the Daily News.

- Any person may, within ten (10) days from publication, by submitting in writing to the City Clerk an offer increasing the amount of the bid being considered by at least 10% of the first one thousand dollars (\$1,000.00) and 5% of the remainder, accompanied by a bid deposit equal to 5% of the increased bid, and agreeing to the requirements contained in the Purchase and Option Agreement.
- If a qualified upset bid meeting all requirements is received, the City Clerk will publish the new offer and allow ten days for any new upset bids / proposed agreements to be received. This procedure is repeated until no additional upset bids are submitted. At that time the final offer will be presented to Council at a regular meeting for consideration of acceptance and sale. Any deposit shall be forfeited if a bid is withdrawn.
- Council may at any time reject any and all offers.

Stakeholders

- Ray Development and Consulting, LLC
- Citizens of Jacksonville

Options

- Approve the Purchase and Option Agreement and Adopt the Resolution.
(RECOMMENDED)

Pros: If this sale is consummated, this would put this property back on the tax books, possibly cause interest in purchasing the remaining acreage in the park, and insure development of this property in accordance with specific uses which will be included as deed restrictions.

Cons: None

- Deny the Purchase and Option Agreement and Resolution

Pros: The property would remain under the ownership of the City for whatever future use Council determines is in the best interest of the area.

Cons: Property would remain of the tax books.

- Defer Action on the Resolution - Should Council desire additional information, defer the request and provide direction to staff on the specific information Council would like to receive.

RESOLUTION (2011 -)

RESOLUTION AUTHORIZING THE ADVERTISEMENT OF
AN OFFER TO PURCHASE CERTAIN PROPERTY

WHEREAS, the City Council of the City of Jacksonville, North Carolina, desires to dispose of certain surplus property of the City for development purposes;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Jacksonville that:

1. The City of Jacksonville has received an offer to purchase 2.50 acres of the property described below for the sum of \$187,500, and an option to purchase agreement for the remaining 3.95 acres at a price to be agreed upon at the time the option is initiated and a new appraisal is obtained, said offer and agreement is hereby incorporated herein by reference as if fully set out;

**PERIMETER PROPERTIES COMMERCIAL/INDUSTRIAL PARK
LOT 1 – 6.45 ACRE TRACT
JACKSONVILLE TWP., ONSLOW COUNTY, NORTH CAROLINA**

Commencing at an existing N.C.G.S. monument entitled “Don 2” and having N.C. Grid Values of North 381,786.536 and Eastern values of 2,471,256.700; and running thence from the said existing N.C.G.S. monument North 26 degrees 07 minutes 26 seconds West 293.51 feet to an existing right of way monument; thence along the Northeastern property line of the O.D. Sandy Subdivision as recorded in Map Book 4 Page 79 of the Onslow County Registry the following courses and distances: North 27 degrees 22 minutes 29 seconds East 1081.17 feet to an iron stake, thence North 28 degrees 15 minutes 10 seconds East 77.69 feet to an existing iron stake, thence North 12 degrees 49 minutes 01 seconds East 102.75 feet to an existing iron stake, thence North 12 degrees 18 minutes 41 seconds East 395.38 feet to an existing iron stake, thence North 39 degrees 56 minutes 36 seconds East 289.99 feet to an iron stake, thence North 39 degrees 56 minutes 36 seconds East 26.11 feet to an iron stake located along the centerline of a Carolina Power & Light Company’s 170 foot easement; thence leaving the said Northeastern property line of the O.D. Sandy Subdivision and running along the said centerline of the Carolina Power & Light Company’s 170 foot easement the following courses and distances: North 29 degrees 03 minutes 33 seconds West 391.17 feet to a point, thence North 32 degrees 35 minutes 20 seconds West 982.33 feet to a point, said point also being THE TRUE POINT OF BEGINNING: thence from the described beginning and leaving the said centerline of the Carolina Power & Light Company’s 170 foot easement and running South 47 degrees 41 minutes 53 seconds West 517.28 feet to a point; thence North 42 degrees 26 minutes 48 seconds West 713.33 feet to a point located along the Southeastern right of way of Williamsburg Parkway (80 foot right of way); thence along the said Southeastern right of way of Williamsburg Parkway along a curve to the left having a radius of 648.27 feet and a chord bearing and distance of North 34 degrees 46 minutes 16 seconds East 182.91 feet to an iron stake; thence leaving the said Southeastern right of way of Williamsburg Parkway and running South 63 degrees 20 minutes 21 seconds East 455.06 feet to an iron stake; thence North 57 degrees 24 minutes 40 seconds East 230.50 feet to an iron stake located along the said centerline of the Carolina Power & Light Company’s 170 foot easement; thence along the said Carolina Power & Light Company’s 170 foot easement South 32 degrees 35 minutes 20

Attachment

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seconds East 294.86 feet to the point and place of beginning. Containing 6.45 acres and being a portion of the property described in Map Book 23 Page 132 of the Onslow County Registry. The courses contained herein are correct in angular relationship and are referenced to N.C. Grid North. JOHN L. PIERCE, P.L.S., L-2596. February 24, 2000. Revised May 3, 2006.

2. The City Council proposes to approve the Agreement and accept the offer unless a qualifying upset bid and Agreement shall be made;
3. The person making the offer must agree to purchase under the same or more favorable conditions of the Purchase and Option Agreement and submit a bid that increases the current offer by at least 10% of the first \$1,000 and 5% of the remainder, accompanied by a deposit of 5% of the increased bid and deposited with the City Clerk for the City of Jacksonville. Any bid deposit will be forfeited if a bid is withdrawn.
4. The City Clerk for the City of Jacksonville shall cause notice of such upset offer to be published in accordance with GS 160A-269 of the North Carolina General Statutes.
5. The City Clerk for the City of Jacksonville is directed, should a qualifying agreement and upset bid and deposit be received within ten (10) days of the date of publication of said notice in accordance with GS 160A-269, to re-advertise the offer at the increased upset bid amount.
6. The City of Jacksonville reserves the right to reject any and all offers at any time.

Adopted by the Jacksonville City Council in regular session, this 8th day of March 2011.

Sammy Phillips, Mayor

ATTEST

Carmen K. Miracle, City Clerk

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY
WITH OPTION TO PURCHASE (the "Agreement")**

THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is made by and between:

RAY DEVELOPMENT AND CONSULTING, LLC, a North Carolina limited liability company, and/or assigns ("Buyer"),

and

CITY OF JACKSONVILLE, a body politic and corporate ("Seller").

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Terms and Definitions: The terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) **"Property"** shall mean:

That certain tract or parcel of land situated in Jacksonville Township, Onslow County, North Carolina and being more particularly described as +/- 2.50 acre situated at the northeast intersection of New Frontier Way and Williamsburg Parkway, as shown on the sketch map attached hereto as Exhibit "A" (being a portion of Tract I as shown on a map recorded in Map Book 51, Page 89, Onslow County Registry - Tax Parcel 339-20.50), together with (i) all rights, easements, hereditaments and appurtenances pertaining to the Property; (ii) all buildings, improvements, trees, bushes, landscaping and foliage thereon; (iii) all right, title, interest, powers, privileges, benefits and options of Seller, or otherwise accruing to the Property, in and to any impact fee credits, development rights, allocations of development density or similar rights allocated or attributable to the Property, and any utility capacity allocated to or attributable to the Property. It is understood and agreed that Buyer, at Buyer's expense, shall cause to be prepared, by a professional land surveyor, a survey of the Property, which shall include a designation of that portion of the Property constituting Section 404 "wetlands" by the US Army Corps of Engineers ("USACE") (the "Survey"), to provide a more exact legal description, including that/those portions of the Property which constitute Section 404 "wetlands", which shall be substituted as Exhibit "A".

(b) **"Purchase Price"** shall mean the **product of SEVENTY FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00) times the actual number of acres of the Property as determined by the "Survey", payable on the following terms:**

(i) **"Earnest Money"** shall mean **NINE THOUSAND THREE HUNDRED SEVENTY FIVE DOLLARS (\$ 9,375.00)** to be paid to the City of Jacksonville, as Escrow Agent, upon execution and delivery of this Contract by Buyer to Seller. The Earnest Money shall be held in escrow to be applied to the Purchase Price at Closing (as hereinafter defined), or otherwise disbursed as provided in this Agreement.

(ii) **the balance of Purchase Price** to be paid by certified check, or other immediately available funds, at Closing.

(c) **"Closing"** shall mean the date and time of payment of the balance of the Purchase Price and recording of the deed. Closing shall occur on or before **sixty (60) days following the**

Attachment

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expiration date of the Examination Period, at a time and place designated by written notice from Buyer to Seller, not less than ten (10) days prior to Closing.

(d) **“Contract Date”** means the date this Agreement has been fully executed by both Buyer and Seller.

(e) **“Examination Period”** shall mean the period beginning on the Contract Date and extending for a period of one hundred eighty (180) days thereafter. ***TIME IS OF THE ESSENCE AS TO THE EXAMINATION PERIOD.***

(f) **“Seller’s Notice Address”** shall be as follows:

City of Jacksonville
Attention: Richard Woodruff, City Manager
P.O. Box 128
Jacksonville, NC 28541
except as same may be changed pursuant to Section 12.

(g) **“Buyer’s Notice Address”** shall be as follows:

RAY DEVELOPMENT AND CONSULTING, LLC
Attn: Cliff Ray
3684-C Henderson Drive
Jacksonville, NC 28546
except as same may be changed pursuant to Section 12.

Section 2. Sale of Property and Payment of Purchase Price: Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

Section 3. Proration of Expenses and Payment of Costs: Seller and Buyer agree that all property taxes, based on the most recently available Property assessment, shall be prorated, on a calendar year basis, as of the date of Closing.

Seller shall pay for preparation of a special warranty deed and all other documents necessary to perform Seller’s obligations under this Agreement, excise taxes, transfer taxes, any deferred or rollback taxes, and other conveyance fees or taxes required by law, recording fees for any documents required to release any liens against the Property and Seller’s attorneys’ fees.

Buyer shall pay recording costs, fees for any title search, title insurance premium, fees for preparation of the Survey of the Property, the cost of any inspections or investigations undertaken by Buyer under this Agreement, fees and costs in connection with any loan of Buyer and Buyer’s attorneys’ fees.

Section 4. Deliveries: Seller agrees to use its best efforts to deliver to Buyer as soon as reasonably possible after the Contract Date copies of all information relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies, and surveys. Seller authorizes (1) any attorney presently or previously representing Seller to release and disclose any title insurance policy in such attorney’s file to Buyer and both Buyer’s and Seller’s agents and attorneys; and (2) the Property’s title insurer or its agent to release and disclose all materials in the Property’s title insurer’s (or title insurer’s agent’s) file to Buyer and both Buyer’s and Seller’s agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller’s request, provide to Seller copies of (subject to the ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys

and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, and shall deliver to Seller, upon the release of the Earnest Money, copies of all of the foregoing without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof.

Section 5. Evidence of Title: Seller agrees to convey fee simple marketable title to the Property free and clear of all liens, encumbrances, encroachments and defects of title other than: (a) Exceptions under Schedule B of Seller's title insurance policy, (b) restrictions recorded in Book 2417, Page 498, Onslow County Registry, and (c) matters shown on any recorded plat of the Property ("Permitted Exceptions"); provided that Seller shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens.

Section 6. Conditions: This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment, or waiver by Buyer, of the following conditions:

(a) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not marketable fee simple, subject only to Permitted Exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination Period, and Seller shall have ten (10) days to cure said noticed defects. If Seller does not cure the defects or objections within ten (10) days of notice thereof, then Buyer may terminate this Agreement and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates, subject only to standard exceptions and Permitted Exceptions.

(b) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may (i) terminate this Agreement and receive a return of the Earnest Money or (ii) proceed to Closing whereupon Buyer shall be entitled to receive, in addition to the Property, any of the Seller's insurance proceeds payable on account of the damage or destruction applicable to the Property.

(c) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting and examining the Property. Buyer shall conduct all such on-site inspections, examinations, environmental audits, soil boring, compaction tests and other testing, of the Property in a good and workmanlike manner, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's use and enjoyment of the Property. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section 6(c) and agrees to indemnify and hold Seller harmless from any damages resulting therefrom. This indemnification obligation of Buyer shall survive the Closing or earlier termination of this Agreement. Buyer shall, at Buyer's expense, promptly repair any damage to the Property caused by Buyer's entry and on-site inspections. Except as provided in Section 6(a) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing.

(d) **Zoning and Permitted Uses:** The Property is currently zoned in the B-1 zoning classification under the applicable zoning ordinances of the City of Jacksonville and the City will permit Buyer to petition for a change or modification of the zoning if current zoning does not allow the Property to be used for: (i) general office use, for operation of a post-secondary school and training facility, including, without limitation, the installation of educational training classrooms and laboratories, and for any other purpose consistent with the Legal Requirements and the nature of the Building intended to be constructed.

IF BUYER CHOOSES NOT TO PURCHASE THE PROPERTY, FOR ANY REASON OR NO REASON, AND PROVIDES WRITTEN NOTICE TO SELLER THEREOF PRIOR TO THE EXPIRATION OF THE EXAMINATION PERIOD, THEN THIS AGREEMENT SHALL TERMINATE, AND BUYER SHALL RECEIVE A RETURN OF THE EARNEST MONEY.

Section 7. Leases: Seller affirmatively represents and warrants that there are, or will be at the time of Closing, no leases, or rights of others to possession, affecting the Property.

Section 8. Environmental: Seller represents and warrants that it has no actual knowledge, and no knowledge which a reasonable person in the position of Seller would have gained as a result of a reasonable inquiry concerning the Property, of the presence or disposal, except as in accordance with applicable law, on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials, and wastes, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. §1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601). Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts.

Section 9. Risk of Loss/Damage/Repair: Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

Section 10. Earnest Money Disbursement: In the event that Buyer elects to terminate this Contract prior to the expiration of the Examination Period as provided in Section 6, supra, or in the event of a breach of this Agreement by Seller, then the Earnest Money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach, including specific performance. In the event this offer is accepted and Buyer breaches this Agreement, then Seller shall be entitled to the Earnest Money as its sole consideration for this Contract.

Section 11. Closing and New Use Restrictions: At Closing, Seller shall deliver to Buyer a special warranty deed and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, (a) an owner's affidavit that either (i) there have been no improvements, additions, alterations, repairs or changes of any kind whatsoever made to the Property during the last one hundred twenty (120) days immediately preceding Closing, or (ii) if there have been any such improvements, repairs or changes, that all lienors or potential lienors in connection with such improvements, repairs or changes have been paid in full, (b) a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the Purchase Price. The Closing shall be held at the office of Buyer's attorney or such other place as the parties hereto may mutually agree. Possession shall be delivered at Closing, unless otherwise agreed herein.

Notwithstanding the permitted uses of the Property under the current zoning classification, as may be amended, the special warranty deed will include a restrictive use covenant restricting the use of the Property, unless otherwise agreed, by written instrument executed by the Seller, and recorded in the Onslow County Registry, to the following uses: Animal hospitals; builders supply and equipment sales; colleges or universities; governmental uses and operations such as fire stations, maintenance and operations facilities, and similar governmental facilities; commercial or non-commercial greenhouses or horticultural gardens; heavy equipment

sales and service; lumberyard, retail sales; offices - business, professional, and public; public utilities substations, storage and service yards; studios for artists, designers, photographers, and other similar activities; telecommunications antenna, collocation on existing tower; telecommunications antenna, placement on existing building; telecommunications tower, stealth; telecommunications tower, freestanding; flex space; and accessory uses. Provided, however, Buyer is permitted to request Seller to approve any use Seller and Buyer agree to that is allowed in B-1 zoning.

Section 12. Notices: Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date (i) delivered in person, (ii) delivered to a nationally recognized overnight delivery carrier, or (iii) deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(f) as to Seller and in Section 1(g) as to Buyer, or at such other addresses as specified by written notice delivered in accordance herewith.

Section 13. Entire Agreement: This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto.

Section 14. Enforceability: This Agreement shall become a contract when a signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that the notice described in Section 12 is not required for effective communication for the purposes of this Section 14. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns and their personal representatives.

Section 15. Survival of Representations and Warranties: All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed for a period of six (6) months. Seller shall, at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as Buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described herein in accordance with this Agreement.

Section 16. Applicable Law: This Agreement shall be construed under the laws of the state in which the Property is located. This form has only been approved for use in North Carolina.

Section 17. Assignment: This Agreement is freely assignable by either party, provided, however, no assignment shall be deemed to release the assigning party from its obligations under this Agreement, unless otherwise provided in writing.

Section 18. Tax-Deferred Exchange: In the event Buyer or Seller desires to effect a tax-deferred exchange in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange; provided, however, that the Closing shall not be delayed; that the exchanging party shall be responsible for all additional costs associated with such exchange, and provided further, that a non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision.

Section 19. Authority: Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

Section 20. Brokers: (a) Buyer and Seller represent and warrant to each other that they have not employed nor engaged any brokers, consultants or real estate agents to be involved in this transaction, other than Cliff J. Ray with Ray Development and Consulting, LLC. Buyer and Seller agree to indemnify and hold each other harmless from any and all claims of brokers, consultants or real estate agents by, through or under the indemnifying party for fees or commissions arising out of the sale of the Property to Buyer.

(b) Cliff J. Ray, Manager of Ray Development & Consulting, LLC, is a licensed North Carolina real estate broker with Richard Ray Real Estate. Mr. Ray is not participating as a broker in this transaction and will not be receiving a commission upon the purchase/sale of the subject property(ies) from either Buyer or Seller. However, in the event this Agreement/Option is assigned, Mr. Ray will participate and be compensated by the Assignee as a broker or consultant for the duration of the project. Furthermore, Richard Ray Real Estate and Mr. Ray, for marketing purposes, may act as listing agent/broker for the sale and lease of units in Jacksonville Business Park. The Seller (City of Jacksonville) is not responsible for any fees to either Ray Development and Consulting, LLC, or Richard Ray Real Estate.

Section 21. Agreement to Grant Option to Purchase: Provided that the transaction contemplated by this Agreement is consummated and Buyer closes the purchase of the Property, Seller hereby agrees to grant to Buyer the right and option to purchase (the "Option") the remaining area of Tract I as described on the map recorded in Map Book 51, Page 89, Slide L-1426, Onslow County Registry, consisting of approximately 3.95 acres (the "Option Tract"), under the following terms and conditions:

- A.. The term of the Option to purchase the "Option Tract" shall be for two (2) years commencing on the date of Closing of the Property under this Agreement (the "Option Period"). Buyer agrees to pay to Seller the sum of \$2,500.00 (the "Option Money") for the Option. The Option Money shall be non-refundable to Buyer, and applied to the purchase price of the Option Tract if Buyer exercises the Option and closes the purchase thereof as provided herein. Seller agrees to execute an instrument, in writing, on the date of Closing of the Property under this Agreement acknowledging Buyer's right and option to purchase the Option Tract, including the commencement and expiration date for exercising said Option.
- B. The Seller shall not be obligated to grant to Buyer the Option, unless and until the Buyer closes the purchase of the Property pursuant to the terms of this Agreement. In the event this Agreement is terminated for any reason, the Seller's obligation to grant the Option shall be deemed null and void. Prior to the execution of an instrument in writing by Seller granting the Option, Buyer shall have no right to purchase the Option Tract. Provided, however, Seller agrees not to sale, lease or enter into any negotiations for the sale or lease of the Option Tract so long as this Agreement is in full force and effect.
- C. The purchase price for the Option Tract shall be the appraised value as determined by a qualified licensed real estate appraiser mutually agreed to by Seller and Buyer. Seller and Buyer shall each pay ½ of the real estate appraiser's fee. In the event Seller and Buyer cannot agree on the same appraiser, each party shall select a duly licensed real estate appraiser and the purchase price shall be the average of the two (2) appraised values. Each party shall be responsible for their respective appraiser's fee. Buyer shall have a current and accurate survey of the Option Tract prepared by a professional land surveyor, with the "wetlands" area designated by the USACE, at Buyer's expense, for preparation of the legal description of the Option Tract to be included in the deed of conveyance, which survey must be approved by Seller, in its reasonable discretion.
- D. Closing shall take place on or before sixty (60) days following the expiration date of the Option Period, at such place, in Onslow County, North Carolina, mutually agreed to by Seller and Buyer. **Time being of the essence.** At the closing of the Option Tract, Seller shall deliver to Buyer a special warranty deed, free of liens and encumbrances other than the following exceptions and reservations:
 - (i) Exceptions under Schedule B of Seller's title insurance policy;
 - (ii) restrictions recorded in Book 2417, Page 498, Onslow County Registry, and

- (iii) matters shown on any recorded plat of the Option Tract;
- E. Seller shall be responsible for payment of revenue stamps and the cost of preparation of the special warranty deed. Buyer shall pay the cost to record the deed, title examination fees, title insurance premium, the fees and costs for preparation of a survey and legal description of the Option Tract, including any subdivision and map recordation fees, and all fees, costs and expenses in connection with the financing of any portion of the purchase price. Seller shall be responsible for payment of property taxes through the year prior to closing. Property taxes for the year in which closing occurs shall be pro rated between Seller and Buyer.
- F. In the event Buyer fails to deliver to Seller written notice of its election to exercise the Option prior to the expiration date of the Option Period, or fails to close within sixty (60) days following the expiration date of the Option Period, Buyer's Option to purchase the Option Tract shall be deemed null and void, in which event, neither party shall have any claims or demands against the other under the terms hereof.

Section 22. Non-Recordation of Agreement and Option. Neither this Agreement, nor the Option, shall be recorded in any city, county, state or federal government office.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, the day and year indicated, by their respective duly authorized officer.

Buyer: RAY DEVELOPMENT AND CONSULTING, LLC

By: Cliff J. Ray
Cliff J. Ray, its Manager

Executed by Buyer this 24th day of February, 2011.

Seller: CITY OF JACKSONVILLE

By: _____
Richard Woodruff, City Manager

Executed by Seller this _____ day of February, 2011.

The undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.

City of Jacksonville

Date: _____, 2011

By: _____

Name: _____

Title: _____

A circular professional seal for a North Carolina Professional Land Surveyor. The outer ring contains the text "NORTH CAROLINA" at the top and "PROFESSIONAL LAND SURVEYOR" at the bottom. In the center, it reads "SEAL" and "L-2596". The name "JOHN L. PIERCE" is written around the inner edge of the seal.

I, JOHN L. BENCE, CERTIFY THAT THE PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION. (DEED DESCRIPTION RECORDED IN BOOK 111, PAGE 126, ETC.) (OTHERS) THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN BOOK 121, PAGE 104. THAT THE PLAT OF PRECISION AS CALLOCATED IS AS 21-30. THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH 65-27-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER AND SEAL THIS 11 DAY OF March, 2006

SURFNO. 176-2546
LICENSE NUMBER

NOV 1964
PUBLIC
COUNTY COMMISSIONER
N.C.

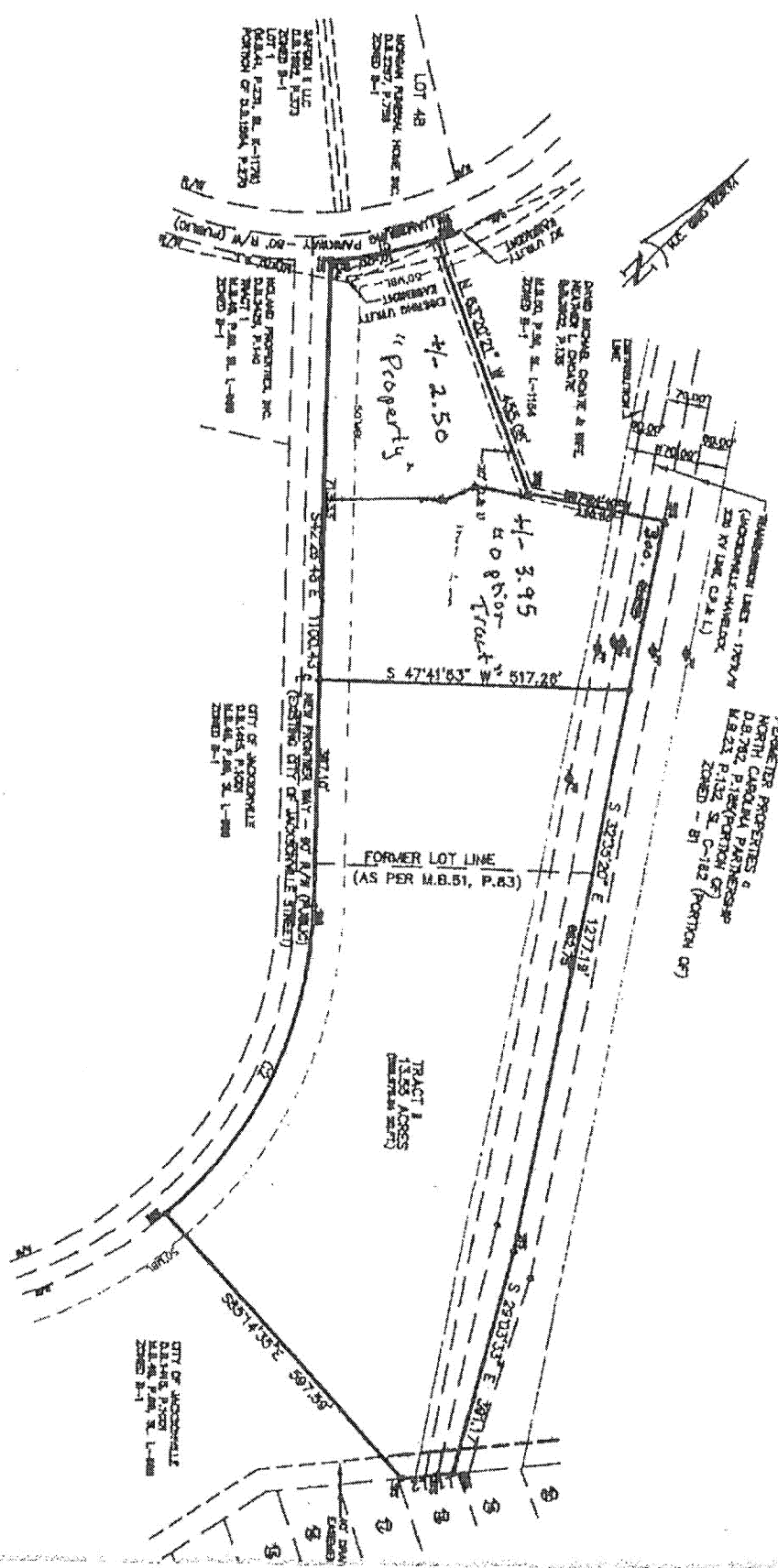
NOTARY PUBLIC

NORTH CAROLINA

ON SLOW COUNTRY

NOTES: 1. PROPERTY IS SUBJECT TO RESTRICTIVE COVENANTS AS RECORDED AT THE OSAGE COUNTY REGISTER OF DEEDS IN DEED BOOK 2. SETBACKS ARE GREATER THAN WHAT THE CITY ZONING ORDINANCES REQUIRES.

Doc
Recd
FEB
CHAS
MILB
EX 5



CERTIFICATE OF CITY'S ATTORNEY

I, the undersigned, John T. Carter Jr., the duly authorized and acting legal representative of THE CITY OF JACKSONVILLE, NORTH CAROLINA, do hereby certify as follows:

I have examined the attached Contract for the **Agreement For Purchase and Sale of Real Property With Option to Purchase** between the City of Jacksonville and **Ray Development and Consulting, LLC** and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legal binding obligations upon the parties executing the same in accordance with terms, conditions, and provisions thereof.

Signature

Date

APPROVAL BY CITY FINANCE OFFICER

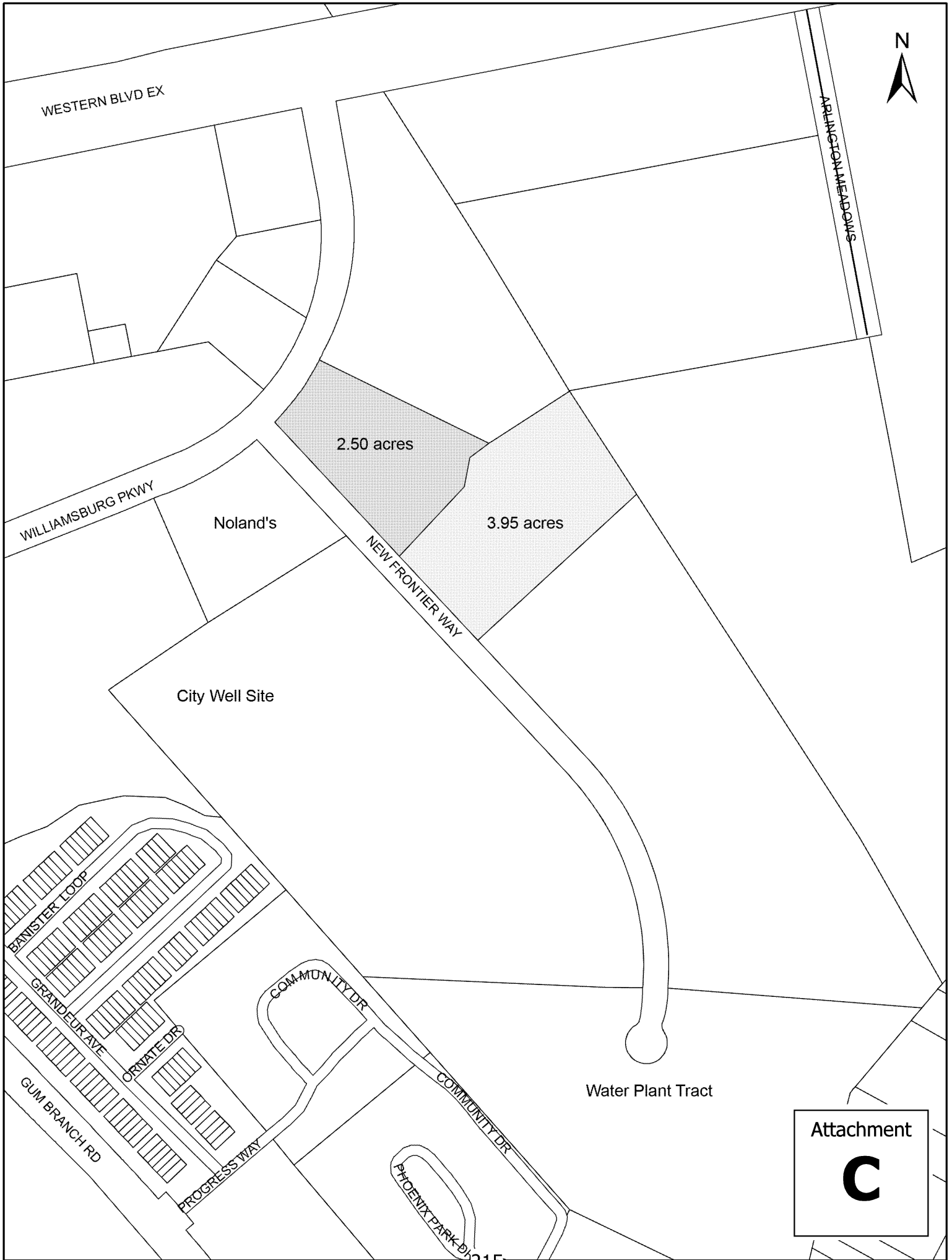
This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Signature

Date

Account # _____

Dollar amount of contract _____



Attachment
C